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SENATE ELECTION LAW GUIDEBOOK
1990

A COMPILATION OF SENATE CAMPAIGN INFORMATION, INCLUDING FEDERAL AND STATE LAWS GOVERNING ELECTION TO THE UNITED STATES SENATE

WENDELL H. FORD, *Chairman*

COMMITTEE ON RULES AND ADMINISTRATION
UNITED STATES SENATE

REVISED TO JANUARY 1, 1990

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SENATE RESOLUTION 253

In the Senate of the United States

February 28 (legislative day, January 23), 1990

Resolved, That the Committee on Rules and Administration hereby is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate document 100-25, and that such document shall be printed as a Senate document.

Sec. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

Attest:

Walter J. Stewart,
Secretary.

PREFACE

The 1990 publication contains a comprehensive compilation of constitutional and federal statutory provisions, materials relating to the nomination and election of candidates to the United States Senate, and analyses of state election laws.

This Guidebook is designed as a ready reference, giving the highlights of the provisions of federal and state laws pertaining to the election of Senators. It is anticipated that it will be of benefit to senatorial candidates, to the Committee on Rules and Administration, and to the public in general. The detailed citations will afford opportunity for reference to the statutory provisions if one should require complete information on any given subject.

This revision of the *Senate Election Law Guidebook* was prepared at the direction of the Committee on Rules and Administration by Thomas M. Durbin, legislative attorney, under the supervision of Richard C. Ehlke, chief, and Kent M. Ronhovde, assistant chief, American Law Division, Congressional Research Service, Library of Congress.

An acknowledgement is made to John L. Sousa, counsel of the Senate Committee on Rules and Administration, for his assistance in the research and preparation of this publication.

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The United States Senate

ONE HUNDRED FIRST CONGRESS

DAN QUAYLE, VICE PRESIDENT

ROBERT C. BYRD, PRESIDENT PRO TEMPORE

WALTER J. STEWART, SECRETARY

HENRY KUUALOHA GIUGNI, SERGEANT AT ARMS

JERI THOMSON, ASSISTANT SECRETARY

C. ABBOTT SAFFOLD, SECRETARY FOR THE MAJORITY

HOWARD O. GREENE, JR., SECRETARY FOR THE MINORITY

REVEREND RICHARD C. HALVERSON, LLD., CHAPLAIN

[Republicans in roman; Democrats in *italic*]

Name	Residence	Service from	Term expires
Brock Adams	Seattle, Wash	Jan. 3, 1987	Jan. 3, 1993
William L. Armstrong	Aurora, Colo	Jan. 3, 1979	Jan. 3, 1991
Max Baucus	Missoula, Mont	Dec. 15, 1978	Jan. 3, 1991
Lloyd Bentsen	Brazoria, Tex	Jan. 3, 1971	Jan. 3, 1995
Joseph R. Biden, Jr	Hockessin, Del	Jan. 3, 1973	Jan. 3, 1991
Jeff Bingaman	Santa Fe, N. Mex	Jan. 3, 1983	Jan. 3, 1995
Christopher S. Bond	Mexico, Mo	Jan. 3, 1987	Jan. 3, 1993
David L. Boren	Oklahoma City, Okla	Jan. 3, 1979	Jan. 3, 1991
Rudy Boschwitz	Minneapolis, Minn	Dec. 30, 1978	Jan. 3, 1991
Bill Bradley	Denvill, N.J	Jan. 3, 1979	Jan. 3, 1991
John B. Breaux	Crowley, La	Jan. 3, 1987	Jan. 3, 1993
Richard H. Bryan	Las Vegas, Nev	Jan. 3, 1989	Jan. 3, 1995
Dale Bumpers	Charleston, Ark	Jan. 3, 1975	Jan. 3, 1993
Quentin N. Burdick	Fargo, N. Dak	Aug. 8, 1960	Jan. 3, 1995
Conrad R. Burns	Billings, Mont	Jan. 3, 1989	Jan. 3, 1995
Robert C. Byrd	Sophia, W. Va	Jan. 3, 1959	Jan. 3, 1995
John H. Chafee	Warwick, R.I	Dec. 29, 1976	Jan. 3, 1995
Dan Coats	Fort Wayne, Ind	Jan. 3, 1989	Nov. 6, 1990
Thad Cochran	Jackson, Miss	Dec. 27, 1978	Jan. 3, 1991
William S. Cohen	Bangor, Maine	Jan. 3, 1979	Jan. 3, 1991
Kent Conrad	Bismarck, N. Dak	Jan. 3, 1987	Jan. 3, 1993
Alan Cranston	Los Angeles, Calif	Jan. 3, 1969	Jan. 3, 1993
Alfonse M. D'Amato	Island Park, N.Y	Jan. 3, 1981	Jan. 3, 1993
John C. Danforth	Newburg, Mo	Dec. 27, 1976	Jan. 3, 1989
Thomas A. Daschle	Aberdeen, S. Dak	Jan. 3, 1987	Jan. 3, 1993
Dennis DeConcini	Tucson, Ariz	Jan. 3, 1977	Jan. 3, 1995
Alan J. Dixon	Belleville, Ill	Jan. 3, 1981	Jan. 3, 1993
Christopher J. Dodd	Norwich, Conn	Jan. 3, 1981	Jan. 3, 1993
Bob Dole	Russell, Kans	Jan. 3, 1969	Jan. 3, 1993
Pete V. Domenici	Albuquerque, N. Mex	Jan. 3, 1973	Jan. 3, 1991
Dave Durenberger	Minneapolis, Minn	Nov. 8, 1978	Jan. 3, 1995
J. James Exon	Lincoln, Nebr	Jan. 3, 1979	Jan. 3, 1991
Wendell H. Ford	Owensboro, Ky	Dec. 28, 1974	Jan. 3, 1993
Wyche Fowler, Jr	Atlanta, Ga	Jan. 3, 1987	Jan. 3, 1993

[Republicans in roman; Democrats in *italic*]

Name	Residence	Service from	Term expires
Jake Garn	Salt Lake City, Utah	Dec. 21, 1974	Jan. 3, 1993
John Glenn	Columbus, Ohio	Dec. 24, 1974	Jan. 3, 1993
Albert Gore, Jr	Carthage, Tenn	Jan. 3, 1985	Jan. 3, 1991
Slade Gorton	Seattle, Wash	Jan. 3, 1981	Jan. 3, 1995
Bob Graham	Miami Lakes, Fla	Jan. 3, 1987	Jan. 3, 1993
Phil Gramm	College Station, Tex	Jan. 3, 1985	Jan. 3, 1991
Charles E. Grassley	New Hartford, Iowa	Jan. 3, 1981	Jan. 3, 1993
Tom Harkin	Cumming, Iowa	Jan. 3, 1985	Jan. 3, 1991
Orrin G. Hatch	Salt Lake City, Utah	Jan. 3, 1977	Jan. 3, 1995
Mark O. Hatfield	Salem, Oreg	Jan. 10, 1967	Jan. 3, 1991
Howell Heflin	Tuscumbia, Ala	Jan. 3, 1979	Jan. 3, 1991
John Heinz	Pittsburgh, Pa	Jan. 3, 1977	Jan. 3, 1995
Jesse Helms	Raleigh, N.C	Jan. 3, 1973	Jan. 3, 1991
Ernest F. Hollings	Charleston, S.C	Nov. 9, 1966	Jan. 3, 1993
Gordon J. Humphrey	Sunapee, N.H	Jan. 3, 1979	Jan. 3, 1991
Daniel K. Inouye	Honolulu, Hawaii	Jan. 3, 1963	Jan. 3, 1993
James M. Jeffords	Shrewsbury, Vt	Jan. 3, 1989	Jan. 3, 1995
J. Bennett Johnston	Shreveport, La	Nov. 14, 1972	Jan. 3, 1991
Nancy Landon Kassebaum	Wichita, Kans	Dec. 23, 1978	Jan. 3, 1991
Robert W. Kasten, Jr	Milwaukee, Wis	Jan. 3, 1981	Jan. 3, 1993
Edward M. Kennedy	Boston, Mass	Nov. 7, 1962	Jan. 3, 1995
Bob Kerrey	Omaha, Nebr	Jan. 3, 1989	Jan. 3, 1995
John F. Kerry	Boston, Mass	Jan. 2, 1985	Jan. 3, 1991
Herbert Kohl	Milwaukee, Wisc	Jan. 3, 1989	Jan. 3, 1995
Frank R. Lautenberg	Montclair, N.J	Dec. 27, 1982	Jan. 3, 1995
Patrick J. Leahy	Burlington, Vt	Jan. 3, 1975	Jan. 3, 1993
Carl Levin	Detroit, Mich	Jan. 3, 1979	Jan. 3, 1991
Joseph I. Lieberman	New Haven, Conn	Jan. 3, 1989	Jan. 3, 1995
Trent Lott	Pascagoula, Miss	Jan. 3, 1989	Jan. 3, 1995
Richard G. Lugar	Indianapolis, Ind	Jan. 3, 1977	Jan. 3, 1995
Connie Mack	Cape Coral, Fla	Jan. 3, 1989	Jan. 3, 1995
Spark M. Matsunaga	Honolulu, Hawaii	Jan. 3, 1977	Jan. 3, 1995
John S. McCain	Phoeniz, Ariz	Jan. 3, 1987	Jan. 3, 1993
James A. McClure	Payette, Idaho	Jan. 3, 1973	Jan. 3, 1991
Mitch McConnell	Louisville, Ky	Jan. 3, 1985	Jan. 3, 1991
Howard M. Metzenbaum	Shaker Heights, Ohio	Dec. 29, 1976	Jan. 3, 1995
Barbara A. Mikulski	Baltimore, Md	Jan. 3, 1987	Jan. 3, 1993
George J. Mitchell	South Portland, Maine	May 19, 1980	Jan. 3, 1995
Daniel Patrick Moynihan	Oneonta, N.Y	Jan. 3, 1977	Jan. 3, 1995
Frank H. Murkowski	Fairbanks, Alaska	Jan. 3, 1981	Jan. 3, 1993
Don Nickles	Ponca City, Okla	Jan. 3, 1981	Jan. 3, 1993
Sam Nunn	Perry, Ga	Nov. 8, 1972	Jan. 3, 1991
Bob Packwood	Portland, Oreg	Jan. 3, 1969	Jan. 3, 1993
Clairborne Pell	Newport, R.I	Jan. 3, 1961	Jan. 3, 1991
Larry Pressler	Humboldt, S. Dak	Jan. 3, 1979	Jan. 3, 1991
David Pryor	Camden, Ark	Jan. 3, 1979	Jan. 3, 1991
Harry Reid	Las Vegas, Nev	Jan. 3, 1987	Jan. 3, 1993
Donald W. Riegle, Jr	Flint, Mich	Dec. 30, 1976	Jan. 3, 1995
Charles S. Robb	McLean, Va	Jan. 3, 1989	Jan. 3, 1995
John D. Rockefeller IV	Charleston, W.Va	Jan. 15, 1985	Jan. 3, 1991
William V. Roth, Jr	Wilmington, Del	Jan. 1, 1971	Jan. 3, 1995
Warren Rudman	Nashua, N.H	Dec. 31, 1980	Jan. 3, 1993
Terry Sanford	Durham, N.C	Nov. 5, 1986	Jan. 3, 1993
Paul S. Sarbanes	Baltimore, Md	Jan. 3, 1977	Jan. 3, 1995
Jim Sasser	Nashville, Tenn	Jan. 3, 1977	Jan. 3, 1995
Richard C. Shelby	Tuscaloosa, Ala	Jan. 3, 1987	Jan. 3, 1993
Paul Simon	Carbondale, Ill	Jan. 3, 1985	Jan. 3, 1991
Alan K. Simpson	Cody, Wyo	Jan. 1, 1979	Jan. 3, 1991
Arlen Specter	Philadelphia, Pa	Jan. 3, 1981	Jan. 3, 1993
Ted Stevens	Anchorage, Alaska	Dec. 24, 1968	Jan. 3, 1991
Steve Symms	Caldwell, Idaho	Jan. 3, 1981	Jan. 3, 1993
Strom Thurmond	Aiken, S.C	Nov. 7, 1956	Jan. 3, 1991

[Republicans in roman; Democrats in *italic*]

Name	Residence	Service from	Term expires
Malcolm Wallop	Big Horn, Wyo	Jan. 3, 1977	Jan. 3, 1995
John W. Warner	Middleburg, Va	Jan. 2, 1979	Jan. 3, 1991
Pete Wilson	San Diego, Calif	Jan. 3, 1983	Jan. 3, 1995
Timothy E. Wirth	Boulder, Colo	Jan. 3, 1987	Jan. 3, 1993

SENATORS IN THE ONE HUNDRED FIRST CONGRESS

1991

CLASS 2

Democrats (16):	
Baucus, Max	Missoula, Mont.
Biden, Joseph R., Jr	Hockessin, Del.
Boren, David L	Oklahoma City, Okla.
Bradley, Bill	Denville, N.J.
Exon, J. James	Lincoln, Nebr.
Gore, Albert, Jr	Carthage, Tenn.
Harkin, Tom	Cumming, Iowa
Heflin, Howell	Tuscumbia, Ala.
Johnston, J. Bennett	Shreveport, La.
Kerry, John F	Boston, Mass.
Levin, Carl	Detroit, Mich.
Nunn, Sam	Perry, Ga.
Pell, Claiborne	Newport, R.I.
Pryor, David	Camden, Ark.
Rockefeller, John D., IV	Charleston, W. Va.
Simon, Paul	Carbondale, Ill.
Republicans (17):	
Armstrong, William L	Aurora, Colo.
Boschwitz, Rudy	Minneapolis, Minn.
Cochran, Thad	Jackson, Miss.
Cohen, William S	Bangor, Maine
Domenici, Pete V	Albuquerque, N. Mex.
Gramm, Phil	College Station, Tex.
Hatfield, Mark O	Salem, Oreg.
Helms, Jesse	Raleigh, N.C.
Humphrey, Gordon J	Sunapee, N.H.
Kassebaum, Nancy Landon	Wichita, Kans.
McClure, James A	Payette, Idaho
McConnell, Mitch	Louisville, Ky.
Pressler, Larry	Humboldt, S. Dak.
Simpson, Alan K	Cody, Wyo.
Stevens, Ted	Anchorage, Alaska
Thurmond, Strom	Aiken, S.C.
Warner, John W	Middleburg, Va.

1993

CLASS 3

Democrats (20):	
Adams, Brock	Seattle, Wash.
Breaux, John B	Crowley, La.
Bumpers, Dale	Charleston, Ark.
Conrad, Kent	Bismarck, N. Dak.
Cranston, Alan	Los Angeles, Calif.
Daschle, Thomas A	Aberdeen, S. Dak.
Dixon, Alan J	Belleville, Ill.
Dodd, Christopher J	Norwich, Conn.
Ford, Wendell H	Owensboro, Ky.
Fowler, Wyche, Jr	Atlanta, Ga.
Glenn, John	Columbus, Ohio

Graham, Bob	Miami Lakes, Fla.
Hollings, Ernest F	Charleston, S.C.
Inouye, Daniel K	Honolulu, Hawaii
Leahy, Patrick J	Burlington, Vt.
Mikulski, Barbara A	Baltimore, Md.
Reid, Harry	Las Vegas, Nev.
Sanford, Terry	Durham, N.C.
Shelby, Richard C	Tuscaloosa, Ala.
Wirth, Timothy E	Boulder, Colo.
Republicans (14):	
Bond, Christopher S	Mexico, Mo.
Coats, Dan *	Fort Wayne, Ind.
D'Amato, Alfonse M	Island Park, N.Y.
Dole, Robert	Russell, Kans.
Garn, Jake	Salt Lake City, Utah
Grassley, Charles E	New Hartford, Iowa
Kasten, Robert W., Jr	Milwaukee, Wisc.
McCain, John S	Phoenix, Ariz.
Murkowski, Frank H	Fairbanks, Alaska
Nickles, Don	Ponca City, Okla.
Packwood, Bob	Portland, Oreg.
Rudman, Warren	Nashua, N.H.
Specter, Arlen	Philadelphia, Pa.
Symms, Steve	Caldwell, Idaho

1995

CLASS 1

Democrats (19):	
Bentsen, Lloyd	Brazoria, Tex.
Bingaman, Jeff	Santa Fe, N. Mex.
Bryan, Richard H	Las Vegas, Nev.
Burdick, Quentin N	Fargo, N. Dak.
Byrd, Robert C	Sophia, W. Va.
DeConcini, Dennis	Tucson, Ariz.
Kennedy, Edward M	Boston, Mass.
Kerrey, Bob	Omaha, Nebr.
Kohl, Herbert	Milwaukee, Wisc.
Lautenberg, Frank R	Montclair, N.J.
Lieberman, Joseph I	New Haven, Conn.
Matsunaga, Spark M	Honolulu, Hawaii
Metzenbaum, Howard M	Shaker Heights, Ohio
Mitchell, George J	South Portland, Maine
Moynihan, Daniel Patrick	Oneonta, N.Y.
Riegle, Donald W., Jr	Flint, Mich.
Robb, Charles S	McLean, Va.
Sarbanes, Paul S	Baltimore, Md.
Sasser, Jim	Nashville, Tenn.
Republicans (14):	
Burns, Conrad R	Billings, Mont.
Chafee, John H	Warwick, R.I.
Danforth, John C	Newburg, Mo.
Durenberger, Dave	Minneapolis, Minn.
Gorton, Slade	Seattle, Wash.
Hatch, Orrin G	Salt Lake City, Utah
Heinz, John	Pittsburgh, Pa.
Jeffords, James M	Shrewsbury, Vt.
Lott, Trent	Pascagoula, Miss.
Lugar, Richard G	Indianapolis, Ind.
Mack, Connie	Cape Coral, Fla.
Roth, William V., Jr	Wilmington, Del.
Wallop, Malcolm	Big Horn, Wyo.
Wilson, Pete	San Diego, Calif.

DEMOCRATS

1991	16
1993	20

1995	19
Total	55

REPUBLICANS

1991	17
1993	14
1995	14
Total	45

TOTALS

Republicans	45
Democrats	55
Total	100

* Appointed to fill an unexpired term until Election Day 1990.

IMPORTANT ELECTION DATES

1990 CONGRESSIONAL PRIMARY DATES AND CANDIDATE FILING DEADLINES FOR BALLOT ACCESS

State	Primary date	Filing deadline	Runoff	Independent filing date
S Alabama	June 5	April 6	June 26	April 6
S Alaska	Aug. 28	June 1		Aug. 1
Arizona	Sept. 11	June 28		Sept. 21
S Arkansas	May 29	April 3	June 12	May 1
California	June 5	March 8		Aug. 10
S Colorado	Aug. 14	June 10		June 10
Connecticut	Sept. 11	Aug. 13		Aug. 10
S Delaware	Sept. 8	July 27		Sept. 1
Florida	Sept. 4	May 11	Oct. 2	May 11
S Georgia	July 17		Aug. 7	Aug. 10
Hawaii	Sept. 22	July 24		July 24
S Idaho	May 22	Mar. 30		June 24
S Illinois	Mar. 20	Dec. 18, 1989		Aug. 6
S Indiana	May 8	Mar. 9 [1]		Aug. 15
S Iowa	June 5	Mar. 1 [2]		Aug. 17
S Kansas	Aug. 7	June 11		Aug. 6
S Kentucky	May 29	Jan. 29		Jan. 29
S Louisiana	Oct. 6	July 27	Nov. 6	July 27
S Maine	June 12	Apr. 2		June 12
Maryland	Sept. 11	July 2		Aug. 6
S Massachusetts	Sept. 18	June 5		Aug. 28
S Michigan	Aug. 7	June 5		Aug. 7
S Minnesota	Sept. 11	July 17		July 17
S Mississippi	June 5	Apr. 6	June 26	Apr. 6
Missouri	Aug. 7	Mar. 27		Aug. 6
S Montana	June 5	Mar. 22		
S Nebraska	May 15	Mar. 16		Aug. 28
Nevada	Sept. 4	July 3 [3]		July 3
S New Hampshire	Sept. 11	June 15		Aug. 22
S New Jersey	June 5	Apr. 12		Apr. 12
S New Mexico	June 5	Mar. 6		July 10
New York	Sept. 11	July 12		Aug. 21
S North Carolina	May 8	Feb. 5	June 5	June 29
North Dakota	June 12	Apr. 13		Apr. 13
Ohio	May 8	Feb. 22		Aug. 23
S Oklahoma	Aug. 28	July 11	Sept. 18	July 11
S Oregon	May 15	Mar. 6		Aug. 28
Pennsylvania	May 15	Mar. 6		Aug. 1
S Rhode Island	Sept. 11	July 2		July 2
S South Carolina	June 12	Apr. 30	June 26	Apr. 30

1990 CONGRESSIONAL PRIMARY DATES AND CANDIDATE FILING DEADLINES FOR BALLOT ACCESS—Continued

State	Primary date	Filing deadline	Runoff	Independent filing date
S South Dakota	June 5	Apr. 3	June 19	Aug. 7
S Tennessee	Aug. 2	June 7		Sept. 6
S Texas	Mar. 13	Jan. 2	Apr. 10	Jan. 2
Utah	Sept. 11	Apr. 16		Apr. 16
Vermont	Sept. 11	July 16		Sept. 20
S Virginia	June 12			June 12
Washington	Sept. 18	July 27		July 27
S West Virginia	May 8	Feb. 3		Feb. 3
Wisconsin	Sept. 11	July 10		July 10
S Wyoming	Aug. 21			Aug. 27
American Samoa	Nov. 6		Nov. 20	
District of Columbia	Sept. 11	July 5		Aug. 29
Guam	Sept. 1	July 3	Sept. 15	July 3
Puerto Rico				
Resident Commissioner to be elected in 1992				
Virgin Islands	Sept. 11	Aug. 14		Aug. 14

Source: Federal Election Commission.

Note: All dates subject to change by legislature.

"S" indicates Senate race.

[1] Indiana statutory provisions indicate the filing deadline would be March 2, 1990.

[2] Iowa statutory provisions indicate the filing deadline would be March 30, 1990.

[3] Nevada statutory provisions indicate the filing deadline would be May 8, 1990.

FILING DEADLINES FOR FILING REPORTS WITH FEC

[Source in FEC]

General Election:	
Date of Election	November 6
Pre-General Report:	
Close of Books	October 17
Registered/Certified Mail Date	October 22
Filing Date [1]	October 25
Post-General Report:	
Close of Books	November 26
Registered/Certified Mail Date	December 6
Filing Date [1]	December 6

Report	Period Covered	Filing Date [1]
Monthly Reports:		
February	Jan. 1–Jan. 31	Feb. 20
March	Feb. 1–Feb. 28	Mar. 20
April	Mar. 1–Mar. 31	Apr. 20
May	Apr. 1–Apr. 30	May 20
June	May 1–May 31	June 20
July	June 1–June 30	July 20
August	July 1–July 31	Aug. 20
September	Aug. 1–Aug. 31	Sep. 20
October	Sept. 1–Sept. 30	Oct. 20
Pre-General	Oct. 1–Oct. 17	Oct. 25 [2]
Post-General	Oct. 18–Nov. 26	Dec. 6
Year-End	Nov. 27–Dec. 31	Jan. 31

[1] Reports sent by registered or certified mail must be postmarked by the filing date (except in the case of the pre-general report). Reports mailed first class or hand delivered must be received by the filing date.

[2] If the pre-general report is sent by registered or certified mail, it must be postmarked three days before the filing date. If sent by first class mail or hand delivered, the report must be received by the filing date.

Quarter	Close of Books	Filing Date [1]
Quarterly Filers:[3]		
First	Mar. 31	Apr. 15
Second	June 30	July 15
Third	Sept. 30	Oct. 15
Fourth	Dec. 31	Jan. 31

[3] Committees may also have to file pre-primary and pre- and post-general reports.

CONGRESSIONAL PRIMARY ELECTION REPORTS DUE IN 1990

State or Territory	Date of Election		Close of Books [2]	
		12-Day Pre-Election Report	Reg./Cert. Mailing Date	Filing Date
Alabama [1]	June 5	May 16	May 21	May 24
Runoff	June 26	June 6	June 11	June 14
Alaska [1]	Aug. 28	Aug. 8	Aug. 13	Aug. 16
American Samoa	Nov. 6	Oct. 17	Oct. 22	Oct. 25
Runoff	Nov. 20	Oct. 31	Nov. 8 [3]	Nov. 8
Arizona	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Arkansas [1]	May 29	May 9	May 14	May 17
Runoff	June 12	May 23	May 31 [3]	May 31
California	June 5	May 16	May 21	May 24
Colorado [1]	Aug. 14	July 25	July 30	Aug. 2
Connecticut	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Delaware [1]	Sept. 8	Aug. 19	Aug. 24	Aug. 27
District of Columbia.	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Florida	Sept. 4	Aug. 15	Aug. 20	Aug. 23
Runoff	Oct. 2	Sept. 12	Sept. 17	Sept. 20
Georgia [1]	July 17	June 27	July 2	July 5
Runoff	Aug. 7	July 18	July 23	July 26
Guam	Sept. 1	Aug. 12	Aug. 17 [4]	Aug. 20
Runoff	Sept. 15	Aug. 26	Sept. 3 [3]	Sept. 3
Hawaii	Sept. 22	Sept. 2	Sept. 7	Sept. 10
Idaho [1]	May 22	May 2	May 7	May 10
Illinois [1]	Mar. 20	Feb. 28	Mar. 5	Mar. 8
Indiana [1]	May 8	Apr. 18	Apr. 23	Apr. 26
Iowa [1]	June 5	May 16	May 21	May 24
Kansas [1]	Aug. 7	July 18	July 23	July 26
Kentucky [1]	May 29	May 9	May 14	May 17
Louisiana [1]	Oct. 6	Sept. 16	Sept. 21	Sept. 24
General	Nov. 6	Oct. 17	Oct. 22	Oct. 25
Maine [1]	June 12	May 23	May 28 [4]	May 31
Maryland	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Massachusetts [1]	Sept. 18	Aug. 29	Sept. 3 [4]	Sept. 6
Michigan [1]	Aug. 7	July 18	July 23	July 26
Minnesota [1]	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Mississippi [1]	June 5	May 16	May 21	May 24
Runoff	June 26	June 6	June 11	June 14
Missouri	Aug. 7	July 18	July 23	July 26
Montana [1]	June 5	May 16	May 21	May 24
Nebraska [1]	May 15	Apr. 25	Apr. 30	May 3
Nevada	Sept. 4	Aug. 15	Aug. 20	Aug. 23
New Hampshire [1]	Sept. 11	Aug. 22	Aug. 27	Aug. 30
New Jersey [1]	June 5	May 16	May 21	May 24
New Mexico [1]	June 5	May 16	May 21	May 24
New York	Sept. 11	Aug. 22	Aug. 27	Aug. 30
North Carolina [1]	May 8	Apr. 18	Apr. 23	Apr. 26
Runoff	June 5	May 16	May 21	May 24
North Dakota	June 12	May 23	May 28 [4]	May 31
Ohio	May 8	Apr. 18	Apr. 23	Apr. 26
Oklahoma [1]	Aug. 28	Aug. 8	Aug. 13	Aug. 16
Runoff	Sept. 18	Aug. 29	Sept. 3 [4]	Sept. 6

CONGRESSIONAL PRIMARY ELECTION REPORTS DUE IN 1990—Continued

State or Territory	Date of Election		Close of Books [2]	
		12-Day Pre-Election Report	Reg./Cert. Mailing Date	Filing Date
Oregon [1]	May 15	Apr. 25	Apr. 30	May 3
Pennsylvania	May 15	Apr. 25	Apr. 30	May 3
Puerto Rico		Resident Commissioner to be elected in 1992.		
Rhode Island [1]	Sept. 11	Aug. 22	Aug. 27	Aug. 30
South Carolina [1]	June 12	May 23	May 28 [4]	May 31
Runoff	June 26	June 6	June 14 [3]	June 14
South Dakota [1]	June 5	May 16	May 21	May 24
Runoff	June 19	May 30	June 7 [3]	June 7
Tennessee [1]	Aug. 2	July 13	July 18	July 21
Texas [1]	Mar. 13	Feb. 21	Feb. 26	Mar. 1
Runoff	Apr. 10	Mar. 21	Mar. 26	Mar. 29
Utah	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Vermont	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Virginia [1]	June 12	May 23	May 28 [4]	May 31
Virgin Islands	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Washington	Sept. 18	Aug. 29	Sept. 3 [4]	Sept. 6
West Virginia [1]	May 8	Apr. 18	Apr. 23	Apr. 26
Wisconsin	Sept. 11	Aug. 22	Aug. 27	Aug. 30
Wyoming [1]	Aug. 21	Aug. 1	Aug. 6	Aug. 9

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[1] These states are also holding U.S. Senate elections in 1990.

[2] This date indicates *end* of reporting period; the period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity in 1990.

[3] Committees involved in the runoff elections held in American Samoa, Arkansas, Guam, South Carolina and South Dakota may use the filing date as the mailing date for their 12-day pre-runoff report.

[4] The mailing date listed is a federal holiday; nevertheless, the report must be received by the filing date.

PART I

CONSTITUTIONAL AND FEDERAL STATUTORY PROVISIONS AND OTHER RELATED MATERIALS REGULATING THE NOMINATIONS AND ELECTIONS OF UNITED STATES SENATORS

A. FEDERAL CONSTITUTIONAL PROVISIONS RELATING TO THE ELECTIONS OF SENATORS

Composition of Senate

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. (Amendment XVII.)

Vacancies

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided,* That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. (*Ibid.,* cl. 2.)

Qualifications

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen. (Art. 1, § 3, cl. 3.)

No person shall be a Senator or Representative in Congress, . . . who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability. (Amendment XIV, § 3.)

Conduct of Elections

The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators. (Art. 1, § 4, c. 1.)

Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business. (Art. 1, § 5, cl. 1.)

Dual Office Holding

No Senator or Representative, shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a Member of either House during his continuance in office. (Art. 1, § 6, cl. 2.)

No Senator or Representative, . . . shall be appointed an Elector. (Art. 2, § 1, cl. 2.)

The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin. (Amendment XX, § 1.)

Ban on Poll Tax

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax. (Amendment XXIV, § 1.)

Eighteen Year Old Vote

The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. (Amendment XXVI, § 1.)

B. LAWS RELATING TO THE ELECTIONS OF SENATORS (TITLE 2, UNITED STATES CODE)

CHAPTER 1—ELECTION OF SENATORS AND REPRESENTATIVES

2 U.S.C. § 1. Time for Election of Senators

At the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people thereof for the term commencing on the 3d day of January next thereafter.

June 4, 1914, ch. 103, § 1, 38 Stat. 384; June 5, 1934, ch. 390, § 3, 48 Stat. 879.

2 U.S.C. § 1a. Election to be Certified by Governor

It shall be the duty of the executive of the State from which any Senator has been chosen to certify his election, under the seal of the State, to the President of the Senate of the United States.

R.S. § 18. See form suggested by Senate Rule II, *infra.*

2 U.S.C. § 1b. Same: Countersignature by Secretary of State

The certificate mentioned in section 1a of this title shall be countersigned by the Secretary of State of the State.

R.S. § 19.

2 U.S.C. § 7. Time of Election

The Tuesday next after the 1st Monday in November, in every even numbered year, is established as the day for the election, in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January, next thereafter. This section shall not apply to any State that has not yet changed its day of election, and whose constitution must be amended in order to effect a change in the day of the election of State officers in said State.

R.S. § 25; Mar. 3, 1875, ch. 130, § 6, 18 Stat. 400; June 5, 1934, ch. 390, § 2, 48 Stat. 879.

2 U.S.C. § 8. Vacancies

The time for holding elections in any State, district, or territory for a Representative or Delegate to fill a vacancy, whether such vacancy is caused by a failure to elect at the time prescribed by law, or by the death, resignation, or incapacity of a person elected, may be prescribed by the laws of the several States and territories respectively.

R.S. § 26.

CHAPTER 2—ORGANIZATION OF CONGRESS (OATH OF OFFICE)

2 U.S.C. § 21. Oath of Senators

The oath of office shall be administered by the President of the Senate to each Senator who shall be elected, previous to his taking his seat.

R.S. § 28.

2 U.S.C. § 22. Oath of President of Senate

When a President of the Senate has not taken the oath of office, it shall be administered to him by any Member of the Senate.

R.S. § 29.

2 U.S.C. § 23. Presiding Officer of Senate May Administer Oaths

The presiding officer, for the time being, of the Senate of the United States, shall have power to administer all oaths and affirmations that are or may be required by the Constitution, or by law, to be taken by any Senator, officer of the Senate, witness, or other person, in respect to any matter within the jurisdiction of the Senate.

Apr. 18, 1876, ch. 66, § 1, 19 Stat. 34.

2 U.S.C. § 24. Secretary of Senate or Assistant Secretary May Administer Oaths

The Secretary of the Senate, and the Assistant Secretary thereof, shall, respectively, have power to administer any oath of affirmation required by law, or by the rules or orders of the Senate, to be taken by any officer of the Senate, and to any witness produced before it.

As amended July 9, 1971, Pub.L. 92-51, § 101, 85 Stat. 125.

CHAPTER 3—COMPENSATION AND ALLOWANCES OF MEMBERS

2 U.S.C. § 31. Compensation of Members of Congress

Definitions:

(1) The annual rate of pay for—

(A) each Senator, Member of the House of Representatives, and Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico,

(B) the president pro tempore of the Senate, the majority leader and the minority leader of the Senate, and the majority leader and the minority leader of the House of Representatives, and

(C) the Speaker of the House of Representatives,

shall be the rate determined for such positions under sections 351 to 361 of this title, as adjusted by paragraph (2) of this section.

(2) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of Title 5 in the rates of pay under the General Schedule, each annual rate referred to in

paragraph (1) shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under section 5305 of Title 5) of the adjustment in the rates of pay under the General Schedule.

As amended Aug. 9, 1975, Pub.L. 94-82, Title II, § 204(a), 89 Stat. 421.

2 U.S.C. § 31-1. Honoraria

(a) For the purposes of this section—

(1) "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1954 [26 U.S.C. § 170(c)];

(2) "honorarium" means a payment of money or anything of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for the purposes of this section any actual and necessary travel expenses, incurred by the Member, and spouse or an aide to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed;

(3) "Member" means a United States Senator, a Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner from Puerto Rico; and

(4) "travel expenses" means with respect to a Member, a spouse or an aide, the cost of transportation, and the cost of lodging and meals while away from his or her residence or the metropolitan area of Washington, District of Columbia.

(b)(1) Notwithstanding any other provision of law, except as provided in paragraph (2), on and after January 1, 1984, a Member shall not accept honoraria which are attributable to any calendar year and total more than the amount that is equal to 40 percent of the aggregate salary paid to such Member for service as a Member during such calendar year.

(2) An individual who becomes a Member on a date after the first day of a calendar year shall not accept honoraria which are attributable to the remaining portion of that calendar year on and after the date such individual becomes a Member and total more than the amount that is equal to 40 percent of the aggregate salary paid to the Member for service as a Member during such calendar year.

(3) For the purposes of this subsection, an honorarium shall be attributable to the period or calendar year in which payment is received.

(4) Notwithstanding the provisions of this subsection—

(A) the percentage referred to under paragraphs (1) and (2) shall be 27 percent as such paragraphs apply to United States Senators in the calendar year beginning on January 1, 1990;

(B)(i) beginning on and after January 1, 1991, if the aggregate salary of a United States Senator is increased pursuant to section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), or any other provision of law, the percentage referred to under paragraphs (1) and (2) (with respect to United States Senators) shall be reduced by a percentage resulting in a dollar amount decrease in the limit of honorarium for each dollar amount of increase of such aggregate salary; and

(ii) beginning on January 1 of the calendar year in which the adjustments under clause (i) of this subparagraph result in a limitation of accepting honoraria less than or equal to 1 percent of the aggregate salary paid to United States Senators for service as Senators in such calendar year, the acceptance of honoraria shall be prohibited, and thereafter no Senator shall accept honoraria.

(c) Any honorarium, or any part thereof, paid by or on behalf of a Member to a charitable organization shall be deemed not to be accepted for the purposes of subsection (b).

July 30, 1983, Pub.L. 98-63, Title I, ch. IX, § 908(a)-(c), 97 Stat. 337, 338; amended Jan. 1, 1986, Pub.L. 99-190, § 137, 19 Stat. 1323, December 19, 1985, and as amended Nov. 30, 1989, Pub.L. 101-194, Title XI, § 1101, 103 Stat. 1782.

2 U.S.C. § 33. Senators' Salaries Payable Monthly

Senators elected, whose term of office begins on the 3d day of January, and whose credentials in due form of law shall have been presented in the Senate, may receive their compensation, from the beginning of their term.

June 19, 1934, ch 648, Title I, § 1, 48 Stat. 1022; Oct 1, 1981, Pub.L. 97-51, § 112(b), 95 Stat. 963.

2 U.S.C. § 36. Salaries of Senators

Salaries of Senators appointed to fill vacancies in the Senate shall commence on the day of their appointment and continue until their successors are elected and qualified: *Provided*, That when Senators have been elected during a sine die adjournment of the Senate to succeed appointees, the salaries of Senators so elected shall commence on the day following their election.

Salaries of Senators elected during a session to succeed appointees shall commence on the day they qualify: *Provided*, That when Senators have been elected during a session to succeed appointees, but have not qualified, the salaries of Senators so elected shall commence on the day following the sine die adjournment of the Senate.

When no appointments have been made the salaries of Senators elected to fill such vacancies shall commence on the day following their election.

Feb. 10, 1923, ch. 68, 42 Stat. 1225; Feb. 6, 1931, ch. 111, 46 Stat. 1065; June 19, 1934, ch. 648, Title I, § 1, 48 Stat. 1022; Feb. 13, 1935, ch. 6, § 1, 49 Stat. 22, 23.

2 U.S.C. § 39. Deductions for absence

The Secretary of the Senate and Sergeant at Arms of the House, respectively, shall deduct from the monthly payments (or other periodic payments authorized by law) of each Member or Delegate the amount of his salary for each day that he has been absent from the Senate or House, respectively, unless such Member or Delegate assigns as the reason for such absence the sickness of himself or of some member of his family.

As amended Oct. 1, 1981, Pub.L. 97-51, § 112(d), 95 Stat. 963.

2 U.S.C. § 40. Deductions for withdrawal

When any Member or Delegate withdraws from his seat and does not return before the adjournment of Congress, he shall, in addition to the sum deducted for each day, forfeit a sum equal to the amount which would have been allowed by law for his traveling expenses [mileage] in returning home; and such sum shall be deducted from his compensation, unless the withdrawal is with the leave of the Senate or House of Representatives respectively.

R.S. § 41.

2 U.S.C. § 40a. Deductions for delinquent indebtedness

Whenever a Representative, Delegate, or Resident Commissioner, or a United States Senator, shall fail to pay any sum or sums due from such person to the House of Representatives or Senate, respectively, the appropriate committee or officer of the House of Representatives or Senate, as the case may be, having jurisdiction of the activity under which such debt arose, shall certify such delinquent sum or sums to the Sergeant at Arms of the House in the case of an indebtedness to the House of Representatives and to the Secretary of the Senate in the case of an indebtedness to the Senate, and such latter officials are authorized and directed, respectively, to deduct from any salary, mileage, or expense money due to any such delinquent such certified amounts or so much thereof as the balance or balances due such delinquent may cover. Sums so deducted by the Secretary of the Senate shall be disposed of by him in accordance with existing law and sums so deducted by the Secretary of the Senate shall be disposed of by him in accordance with existing law and sums so deducted by the Sergeant-at-Arms of the House shall be paid to the Clerk of the House and disposed of by him in accordance with existing law.

June 19, 1934, ch. 648, Title I, § 1, 48 Stat. 1024.

2 U.S.C. § 43. Mileage of Senators, Representatives, and Delegates

Each Senator, Representative, and Delegate shall receive mileage at the rate of 20 cents per mile, to be estimated by the nearest route usually traveled in going to and returning from each regular session.

July 28, 1866, ch. 296, § 17 in part, 14 Stat. 323.

2 U.S.C. § 43d. Appointment of employees to assist Senator-elect.

(a) Upon the recommendation of a Senator-elect (other than an incumbent Senator or a Senator elected to fill a vacancy), the Secretary of the Senate shall appoint two employees to assist such Senator-elect. Any employee so appointed shall serve through the day before the date on which the Senator-elect recommending his appointment commences his service as a Senator, except that his employment may be terminated before such day upon recommendation of such Senator-elect.

(b)(1) Salaries of employees appointed under subsection (a) shall be paid from the appropriation for "Administrative, Clerical, and Legislative Assistance to Senators".

(2) Salaries paid to employees appointed upon recommendation of a Senator-elect under subsection (a) shall be charged against the amount of compensation which may be paid to employees in his office under section 105(d) of the Legislative Branch Appropriations Act, 1968, as amended and modified (2 U.S.C. 61–1(d)) (hereinafter referred to as the "clerk-hire allowance"), for the fiscal year in which his service as a Senator commences. The total amount of salaries paid to employees so appointed upon recommendation of a Senator-elect shall be charged against his clerk-hire allowance for each month in such fiscal year beginning with the month in which his service as a Senator commences (until the total amount has been charged) by whichever of the following amounts is greater: (1) one-ninth of the amount of salaries so paid, or (2) the amount by which the aggregate amount of his clerk-hire allowance which may be paid as of the close of such month under section 105(d)(1)(B) of such Act [2 U.S.C. § 61--1(d)(1)(B)] exceeds the aggregate amount of his clerk-hire allowance actually paid as of the close of such month.

(c) Each Senator-elect and each employee appointed under subsection (a) is authorized one round trip from the home State of the Senator-elect to Washington, D.C., and return, for the purposes of attending conferences, caucuses, or organizational meetings, or for any other official business connected with the impending Congress. In addition, each Senator-elect and each such employee is authorized per diem for not more than seven days while en route to and from Washington, D.C., and while in Washington, D.C. Such transportation and per diem expenses shall be in the same amounts as are payable to Senators and employees in the office of a Senator under section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), and shall be paid from the contingent fund of the Senate upon itemized vouchers certified by the Senator-elect concerned and approved by the Secretary of the Senate.

(d)(1) Each Senator-elect is authorized to be reimbursed for expenses incurred for telegrams and telephone services related to his position as a Senator-elect in an amount not exceeding one-twelfth of the total amount of expenses authorized to be paid to or on behalf of a Senator from the State which he will represent under section 506 of the Supplemental Appropriations Act, 1973 [2 U.S.C. § 58]. Reimbursement to a Senator-elect under this subsection shall be paid from the contingent fund of the Senate upon itemized vouchers certified by such Senator-elect and approved by the Secretary of the Senate.

(2) Amounts reimbursed to a Senator-elect under this subsection shall be charged against the amount of expenses which are authorized to be paid to him or on his behalf under section 506 of the Supplemental Appropriations Act, 1973 [2 U.S.C. § 58], for each of the

twelve months beginning with the month in which his service as a Senator commences (until all of such amounts have been charged) by whichever of the following amounts is greater: (1) one-twelfth of the amounts so reimbursed, or (2) the amount by which the aggregate amount authorized to be so paid under section 506(c) of such Act [2 U.S.C. § 58(c)] as of the close of such month exceeds the aggregate amount actually paid under such section 506 [2 U.S.C. § 58] as of the close of such month.

Sept. 8, 1978, Pub.L. 95-355, Title I, ch. VI, § 105(a)-(d), 92 Stat. 534.

2 U.S.C. § 46a-1. Senate revolving fund for stationery allowances; availability of unexpended balances; withdrawals

There is hereby established within the Contingent Fund of the Senate a revolving fund which shall consist of (1) the expended balance of the appropriation "Contingent Expenses, Senate, Stationery, fiscal year 1957", (2) any amounts hereafter [after June 21, 1957] appropriated for stationery allowances of the President of the Senate, and for stationery for use of officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate, and (3) any undeposited amounts heretofore received, and any amounts hereafter received as proceeds of sales by the stationery room of the Senate. Any moneys in the fund shall be available until expended for use in the same manner and for the same purposes as funds heretofore [before June 21, 1957] appropriated to the Contingent Fund of the Senate for stationery, except that (1) the balance of any amount appropriated for stationery for use of committees and officers of the Senate which remains unexpended at the end of any fiscal year and (2) allowances which are not available for obligation due to vacancies or waiver entitlement thereto, shall be withdrawn from the revolving fund.

June 21, 1957, Pub.L. 85-58, ch. XI, § 1101, 71 Stat. 188; Oct, 31, 1972, Pub.L. 92-607, ch. V, § 506(k)[(j)][(i)][(h)] 86 Stat. 1508; Sept. 30, 1978, Pub.L. 95-391, Title I, § 108(a) in part, 92 Stat. 773; July 8, 1980, Pub.L. 96-304, Title I, ch. IX, ch. X, § 112(b)(3), 194, Stat. 889, 892; S. Res. No. 2939 of Sept. 22, 1982, Title I, § 106(a) in part, as incorporated Oct. 2, 1982, Pub.L. 97-276, § 101(e), 96 Stat. 1189.

C. CAMPAIGN FINANCING, REPORTING, AND DISCLOSURE (TITLE 2, UNITED STATES CODE)

2 U.S.C. § 431. Definitions

When used in this Act:

(1) The term "election" means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party which has authority to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(2) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, and for purpose of this paragraph, an individual shall be deemed to seek nomination for election, or election—

(A) if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000; or

(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of $5,000 or has made such expenditures aggregating in excess of $5,000.

(3) The term "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

(4) the term "political committee" means—

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of sections 441(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this Section aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

(5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 432(e)(1) of this title.

(6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 432(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.

(7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

(8)(A) The term "contribution" includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2.000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

> (I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;
>
> (II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and
>
> (III) shall bear the usual and customary interest rate of the lending institution;

(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

(ix) any legal or accounting services rendered to or on behalf of—

> (I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or
>
> (II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper

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stickers, handbills, brochures, posters, tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular condidates;

(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided,* That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

(xiv) any honorarium (within the meaning of section 441i of this title).

(9) (A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b) but all such costs shall be reported in accordance with section 434(b);

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided*, That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended.

Pub.L. 92-225, Title III, § 301, Feb. 7, 1982, 86 Stat. 11, as amended by Pub.L. 93-443, Title II, §§ 201(a), 208(c)(1), Oct. 15, 1974, 88 Stat. 1272-75, 1286; Pub.L. 94-283, Title I, §§ 102, 115(h), May 11, 1976, 90 Stat. 478, 495, 496, and amended by Pub.L. 96-187, Title I, § 101, Jan. 8, 1980, 93 Stat. 1339-45.

2 U.S.C. § 432. Organization of political committees—Treasurer; vacancy; official authorizations

(a) Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

ACCOUNT OF CONTRIBUTIONS; SEGREGATED FUNDS

(b)(1) Every person who receives a contribution for an authorized political committee shall, not later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

RECORDKEEPING

(c) The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of $200.

PRESERVATION OF RECORDS AND COPIES OF REPORTS

(d) The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

PRINCIPAL AND ADDITIONAL CAMPAIGN COMMITTEES; DESIGNATIONS, STATUS OF CANDIDATE, AUTHORIZED COMMITTEES, ETC.

(e)(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1) of this section.

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act,

as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term "support" does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

(5) The name of any separate segregated fund established pursuant to section 441b(b) shall include the name of its connected organization.

FILING WITH AND RECEIPT OF DESIGNATIONS, STATEMENTS, AND REPORTS BY PRINCIPAL CAMPAIGN COMMITTEES

(f)(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

FILING WITH AND RECEIPT OF DESIGNATIONS, STATEMENTS, AND REPORTS BY CLERK OF HOUSE OF REPRESENTATIVES OR SECRETARY OF SENATE; FORWARDING TO COMMISSION; FILING REQUIREMENTS WITH COMMISSION; PUBLIC INSPECTION AND PRESERVATION OF DESIGNATIONS, ETC.

(g)(1) Designations, statements, and reports required to be filed under this Act by a candidate or by an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, and by the principal campaign committee of such a candidate, shall be filed with the Clerk of the House of Representatives, who shall receive such designations, statements, and reports as custodian for the Commission.

(2) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, and by the principal campaign committee of such candidate, shall be filed with

the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

(3) The Clerk of the House of Representatives and the Secretary of the Senate shall forward a copy of any designation, statement, or report filed with them under this subsection to the Commission as soon as possible (but no later than 2 working days) after receiving such designation, statement or report.

(4) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraphs (1) and (2), shall be filed with the Commission.

(5) The Clerk of the House of Representatives and the Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such designations, statements, and reports in the same manner as the Commission under section 438(a)(5).

CAMPAIGN DEPOSITORIES; DESIGNATIONS, MAINTENANCE OF ACCOUNTS, ETC.; PETTY CASH FUND FOR DISBURSEMENTS; RECORD OF DISBURSEMENTS

(h)(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

(2) A political committee may maintain a petty cash fund for disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5) of this section.

BEST EFFORTS

(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of title 26.

Pub.L. 92–225, Title III, § 302, Feb. 7, 1972, 86 Stat. 12, as amended by Pub.L. 93–443, Title II, §§ 202, 208(c)(2), Oct. 15, 1974, 88 Stat. 1275–76, 1286, and amended by Pub.L. 94–283, Title I, § 103, May 11, 1976, 90 Stat. 480, and amended by Pub.L. 96–187, Title I, § 102, Jan. 8, 1980, 93 Stat. 1345–47.

2 U.S.C. § 433. Registration of political committees—Statements of organizations

(a) Each authorized campaign committee shall file a statement of organization not later than 10 days after designation pursuant to section 432(e)(1). Each separate segregated fund established under the provisions of section 441b(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of section 431(4).

CONTENTS OF STATEMENTS

(b) The statement of organization of a political committee shall include—

(1) the name, address, and type of committee;

(2) the name, address, relationship, and type of any connected organization or affiliated committee;

(3) the name, address, and position of the custodian of books and accounts of the committee;

(4) the name and address of the treasurer of the committee;

(5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and

(6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

CHANGE OF INFORMATION IN STATEMENTS

(c) Any change in information previously submitted in a statement or organization shall be reported in accordance with section 432(g) no later than 10 days after the date of the change.

TERMINATION, ETC., REQUIREMENTS OF AUTHORITIES

(d)(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 432(g), that it will no longer receive any contributions or make any disbursements and that such committee has no outstanding debts or obligations.

(2) Nothing contained in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—

(A) the determination of insolvency with respect to any political committee;

(B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for reduction of outstanding debts; and

(C) the termination of an insolvent political committee after such liquidation and application of assets.

Pub.L. 92-225, Title III, § 303, Feb. 7, 1972, 86 Stat. 14, as amended by Pub.L. 93-443, Title II, §§ 203, 208(c)(3), Oct. 15, 1974, 88 Stat. 1276, 1286, and amended by Pub.L. 96-187, Title I, § 103, Jan. 8, 1980, 93 Stat. 1347-48.

2 U.S.C. § 434. Reporting requirements—Receipts and disbursements by treasurers of political committees; filing requirements

(a)(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the following reports shall be filed:

(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100,000 or makes expenditures in excess of $100,000 the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter; except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

CONTENTS OF REPORTS

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title, and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year; and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

STATEMENTS BY OTHER THAN POLITICAL COMMITTEES; FILING; CONTENTS; INDICES OF EXPENDITURES

(c)(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) of this section for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2) of this section, and shall include—

(A) the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsectin (b)(6)(B)(iii) of this section, aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the Clerk, the Secretary, or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii) of this section, made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

Pub.L. 92-225, Title III, §304, Feb. 7, 1972, 86 Stat. 14, as amended by Pub.L. 93-113, Title II, §§204(a)-(c), 208(c)(4), Oct. 15, 1974, 88 Stat. 1276, 1277, 1278, 1286; Pub.L. 94-283, Title I, §104, May 11, 1976, 90 Stat. 480, and amended by Pub.L. 96-187, Title I, §104, Jan. 8, 1980, 93 Stat. 1348-54.

2 U.S.C. §435. [Requirements relating to campaign advertising] Repealed.

[2 U.S.C. §435, based on Pub.L. 92-225, Title III, §305, Feb. 7, 1972, 86 Stat. 16; as amended by Pub.L. 93-443, Title II, §205, Oct. 15, 1974, 88 Stat. 1278) was repealed by Pub.L. 96-187, Title I, §105(a)(1) Jan. 8, 1980, 93 Stat. 1354.]

2 U.S.C. § 436. [Formal requirements respecting reports and statements] Repealed.

[2 U.S.C. § 436 (based on Pub.L. 92-225, Title III, § 306, Feb. 7, 1972, 86 Stat. 16; as amended by Pub.L. 93-443, Title II, §§ 206, 207, 208(c)(5), Oct. 15, 1974, 88 Stat. 1278, 1279, 1286; Pub.L. 94-283, Title I, § 115(a)(1), May 11, 1976, 90 Stat. 495) was repealed by Pub.L. 96-187, Title I, § 105(a)(1), Jan. 8, 1980, 93 Stat. 1354.]

2 U.S.C. § 437. Reports on convention financing

Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall within 60 days following the end of the convention (but not later than 20 days prior to the date on which presidential and vice presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

Pub.L. 92-225, Title III, § 305, formerly § 307, Feb. 7, 1972, 86 Stat. 16, as amended by Pub.L. 93-443, Title II, § 208(c)(6), Oct. 15, 1974, 88 Stat. 1286, and renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a)(2), 112(a), Jan. 8, 1980, 93 Stat. 1354, 1366.

2 U.S.C. § 437a. [Reports by certain persons] Repealed.

[2 U.S.C. § 437a (which was based on section 308 of Pub.L. 92-225, as added by section 208(a) of Pub.L. 93-443) as repealed by Pub.L. 94-283, Title I, § 105, May 11, 1976, 90 Stat. 481.]

2 U.S.C. § 437b. [Campaign depositories] Repealed.

[2 U.S.C. § 437b (based on Pub.L. 92-225, Title III, § 308, formerly § 309, as added by Pub.L. 93-443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1280, and renumbered and amended by Pub.L. 94-283, Title I, §§ 105, 106, 115(i), May 11, 1976, 90 Stat. 481, 496) was repealed by Pub.L. 96-187, Title I, § 105(a)(1), Jan. 8, 1980, 93 Stat. 1354.]

2 U.S.C. § 437c. Federal Election Commission—Establishment; membership; term of office; vacancies; qualifications; compensation; chairman and vice chairman

(a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be apointed for terms ending on April 30, 1977;

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (5 U.S.C. 5315).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

ADMINISTRATION, ENFORCEMENT, AND FORMULATION OF POLICY; EXCLUSIVE JURISDICTION OF CIVIL ENFORCEMENT; CONGRESSIONAL AUTHORITIES OR FUNCTIONS WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE

(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of title 26. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

VOTING REQUIREMENTS; DELEGATION OF AUTHORITIES

(c) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 437d(a) of this title or with chapter 95 or chapter 96 of title 26.

MEETINGS

(d) The Commission shall meet at least once each month and also at the call of any member.

RULES FOR CONDUCT OF ACTIVITIES; JUDICIAL NOTICE OF SEAL; PRINCIPAL OFFICE

(e) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

STAFF DIRECTOR AND GENERAL COUNSEL; APPOINTMENT AND COMPENSATION; APPOINTMENT AND COMPENSATION OF PERSONNEL AND PROCUREMENT OF INTERMITTENT SERVICES BY STAFF DIRECTOR; USE OF ASSISTANCE, PERSONNEL, AND FACILITIES OF FEDERAL AGENCIES AND DEPARTMENTS; COUNSEL FOR DEFENSE OF ACTIONS

(f)(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332).

(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

(4) Notwithstanding the provisions of paragraph (2), the Commission is authorized to appear in and defend against any action instituted under this Act; either (A) by attorneys employed in its office, or (B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission.

Pub.L. 92-225, Title III, § 306, formerly § 310, as added by Pub.L. 93-443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1280; as amended and renumbered by Pub.L. 94-283, Title I, §§ 101(a)-(d), 105, May 11, 1976, 90 Stat. 475, 481; and as amended and renumbered by Pub.L. 96-187, Title I, §§ 105(a) (3), (6), 112(b), Jan. 8, 1980, 93 Stat. 1354-56, 1366.

2 U.S.C. § 437d. Powers of Commission—Specific authorities

(a) The Commission has the power—

(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 437g(a)(8) of this title) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of title 26, through its general counsel;

(7) to render advisory opinions under section 437f of this title;

(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the

provisions of this Act and chapter 95 and chapter 96 of title 26; and

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

JUDICIAL ORDERS FOR COMPLIANCE WITH SUBPENAS AND ORDERS OF COMMISSION; CONTEMPT OF COURT

(b) Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

CIVIL LIABILITY FOR DISCLOSURE OF INFORMATION

(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

CONCURRENT TRANSMISSIONS TO CONGRESS OR MEMBER OF BUDGET ESTIMATES, ETC.; PRIOR SUBMISSION OF LEGISLATIVE RECOMMENDATIONS, TESTIMONY, OR COMMENTS ON LEGISLATION

(d)(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

EXCLUSIVE CIVIL REMEDY FOR ENFORCEMENT

(e) Except as provided in section 437g(a)(8) of this title the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act.

Pub.L 92-225, Title III, § 307, formerly § 311, as added by Pub.L. 93-443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1282; as amended and renumbered by Pub.L. 94-283, Title I, §§ 105, 107, 115(a)(2), May 11, 1976, 90 Stat. 481, 495; and as amended and renumbered by Pub.L. 96-187, Title I, §§ 105(a)(3), 106, Jan. 8, 1980, 93 Stat. 1354, 1356-57.

2 U.S.C. § 437e. [Reports] Repealed.

[2 U.S.C. § 437e (based on Pub.L. 92-225, Title III, § 311, formerly § 312, as added by Pub.L. 93-443, Title II § 208(a), Oct. 15, 1974, 88 Stat. 1283, and renumbered by Pub.L. 94-283, Title I, § 105, May 11, 1976, 80 Stat. 481) was repealed by Pub.L. 96-187, Title I, § 105(a)(1), Jan. 8, 1980, 93 Stat. 1354.]

2 U.S.C. § 437f. Advisory Opinions

REQUESTS BY PERSONS, CANDIDATES, OR AUTHORIZED COMMITTEES; SUBJECT MATTER; TIME FOR RESPONSE

(a)(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

PROCEDURES APPLICABLE TO INITIAL PROPOSAL OF RULES OR REGULATIONS, AND ADVISORY OPINIONS

(b) Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 438(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

PERSONS ENTITLED TO RELY UPON OPINIONS; SCOPE OF PROTECTION FOR GOOD FAITH RELIANCE

(c)(1) Any advisory opinion rendered by the Commission under subsection (a) of this section may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

REQUESTS MADE PUBLIC; SUBMISSION OF WRITTEN COMMENTS BY INTERESTED PUBLIC

(d) The Commission shall make public any request made under subsection (a) of this section for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.

Pub.L. 92-225, Title III, § 308, formerly § 313, as added by Pub.L. 93-443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1283; amended and renumbered by Pub.L. 94-283, Title I, §§ 105, 108, May 11, 1976, 90 Stat. 481, 482; and amended and renumbered by Pub.L. 96-187, Title I, §§ 105(a)(4), 107, Jan. 8, 1980, 93 Stat. 1354, 1357-58.

2 U.S.C. § 437g. Enforcement—Administrative and judicial practice and procedure

(a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26, has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate in writing to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violations. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provision of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the

Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clause (ii), if the Commission determines by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26 the Commission shall make public such determination.

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section, or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the

United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(7) In any action brought under paragraph (5) or (6), subpenas for witnesses who are required to attend a United States district court may run into any other district.

(8)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(10) [Repealed]

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12)(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than $5,000.

NOTICE TO PERSONS NOT FILING REPORTS PRIOR TO INSTITUTION OF ENFORCEMENT ACTION; PUBLICATION OF IDENTITY OF PERSONS AND UNFILED REPORTS

(b) Before taking any action under subsection (a) of this section against any person who has failed to file a report required under section 434(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 434(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 438(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

REPORTS BY ATTORNEY GENERAL OF APPARENT VIOLATION

(c) Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

PENALTIES; DEFENSES; MITIGATION OF OFFENSES

(d)(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of $25,000 or 300 percent of any contribution or expenditure involved in such violation.

(B) In the case of a knowing and willful violation of section 441b(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating $250 or more during a calendar year. Such violation of section 441b(b)(3) may incorporate a violation of section 441c(b), 441f or 441g of this title.

(C) In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

Pub.L. 92-225, Title III, § 309, formerly § 314, as added by Pub.L. 93-443, Title II, § 208(a) Oct. 15, 1974, 88 Stat. 1284; amended and renumbered by Pub.L. 94-283, Title I, §§ 105, 109, May 11, 1976, 90 Stat. 481, 483; and amended and renumbered by Pub.L. 96-187, Title I, §§ 105(a)(4), 108, Jan. 8, 1980, 93 Stat. 1354, 1358-62; and amended by Pub.L. 98-620, Title IV, subtitle A, § 402(1)(A), Nov. 8, 1984, 98 Stat. 3357.

2 U.S.C. § 437h. Judicial review—Actions, including declaratory judgments, for construction of constitutional questions; eligible plaintiffs; certification of such questions to courts of appeals sitting en blanc

The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en blanc.

APPEAL TO SUPREME COURT; TIME FOR APPEAL

(b) Notwithstanding any other provision to law, any decision on a matter certified under subsection (a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

(c) [Repealed]

Pub.L. 92-225, Title III, § 310, formerly § 315, as added by Pub.L. 93-443, Title II, § 208, Oct. 15, 1974, 88 Stat. 1285; amended and renumbered by Pub.L. 94-283, Title I, §§ 105, 115(e), May 11, 1976, 90 Stat. 481, 496; and amended and renumbered by Pub.L. 96-187, §§ 105(a)(4), 112(c), Jan. 8, 1980, 93 Stat. 1354, 1366; amended by Pub.L. 98-620, Title IV, subtitle A, § 402(1)(B), Nov. 8, 1984, 98 Stat.; and amended by Pub.L. 100-352, 6(a), June 27, 1988, 102 Stat. 663.

2 U.S.C. § 438. Administrative provisions—Duties of Commission

(a) The Commission shall—

(1) prescribe forms necessary to implement this Act;

(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Clerk, Secretary, or the Commission shall exclude these lists from the public record;

(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

(6)(A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multi-candidate committees, including in such index a list of multi-candidate committees; and

(C) compile and maintain a list of multi-candidate committees, which shall be revised and made available monthly;

(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d) of this section;

(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

AUDITS AND FIELD INVESTIGATIONS

(b) The Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of title 26 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does meet the threshold requirements established by the Commission. Such audit shall be commenced within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

STATUTORY PROVISIONS APPLICABLE TO FORMS AND INFORMATION-GATHERING ACTIVITIES

(c) Any forms prescribed by the Commission under subsection (a)(1) of this section, and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

RULES, REGULATIONS, OR FORMS; ISSUANCE, PROCEDURES APPLICABLE, ETC.

(d)(1) Before prescribing any rule, regulations, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term "legislative day" means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms "rule" and "regulation" mean a provision or series of interrelated provisions stating a single, separable rule of law.

(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such a resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed with.

SCOPE OF PROTECTION FOR GOOD FAITH RELIANCE UPON RULES OR REGULATIONS

(e) Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

PROMULGATION OF RULES, REGULATIONS, AND FORMS BY COMMISSION AND INTERNAL REVENUE SERVICE; REPORT TO CONGRESS ON COOPERATIVE EFFORTS

(f) In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.

Pub.L. 92-225, Title III, § 311, formerly § 308, Feb. 7, 1972, 86 Stat. 16; as renumbered and amended by Pub.L. 93-443, Title II, §§ 208 (a), (c)(8)-(10), 209 (a)(1), (b), Oct. 15, 1974, 88 Stat. 1279, 1286, 1287; and renumbered and amended by Pub.L. 94-283, Title I, §§ 105, 110, May 11, 1976, 90 Stat. 481, 486; and as renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a)(4), 109, Jan. 8, 1980, 93 Stat. 1354, 1362-64.

2 U.S.C. § 439. Statements filed with State officers—Appropriate State; defined

(a)(1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

(2) For purposes of this subsection, the term "appropriate State" means—

(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

DUTIES OF STATE OFFICERS

(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1) of this section, shall—

(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

(4) compile and maintain a current list of all reports and statements pertaining to each candidate.

Pub.L. 92-225, Title III, § 312, formerly § 309, Feb. 7, 1972, 86 Stat. 18; as renumbered and amended by Pub.L. 93-443, Title II, § 208 (a), (c)(11), Oct. 15, 1974, 88 Stat. 1279, 1287; renumbered by Pub.L. 94-283, Title I, § 105, May 11, 1976, 90 Stat. 481; and as renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a)(4), 110, Jan. 8, 1980, 93 Stat. 1354, 1364-65.

2 U.S.C. § 439a. Use of contributed amounts for certain purposes

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purposes of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that [See note.] no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.

Note: Effective date of the amendment eliminating the excess campaign fund grandfather provision. The amendment made by subsection (a)(1) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress in the 102nd Congress or an earlier Congress, shall apply, except as provided in prargraph (2), to the use of excess amounts totaling more than the amount equal to the unobligated balance on hand on the date of the enactment of this Act; and (2) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress after the 102nd Congress (including an individual referred to in paragraph (1) who so serves), shall apply to the use of any excess amount on or after the first day of such service.

Pub.L. 92-225, Title III, § 313, formerly § 318, as added by Pub.L. 93-443, Title II, § 210, Oct. 15, 1974, 88 Stat. 1280; renumbered by Pub.L. 94-283, Title I, § 105, May 11, 1976, 90 Stat. 481; renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a)(4), 113, Jan. 8, 1980, 93 Stat. 1354, 1366-67, and as amended by Pub.L. 101-194, Title V, § 504, Nov. 30, 1989, 103 Stat. 1755.

2 U.S.C. § 439b. [Prohibition of franked solicitations] Repealed.

[2 U.S.C. § 439b (based on Pub.L. 92-225, Title III, § 318, formerly § 319, as added by Pub.L. 93-443, Title II, § 210, 88 Stat. 1289, renumbered by Pub.L. 94-283, Title I, § 105, May 11, 1976, 90 Stat. 481) was repealed by Pub.L. 96-187, Title I, § 105(a)(1), Jan. 8, 1980, 93 Stat. 1354.]

2 U.S.C. § 439c. Authorization of appropriations

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of Title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $6,000,000 for the fiscal year ending September 30, 1977, and $7,811,500 for the fiscal year ending September 30, 1978.

Pub.L. 92-225, Title III, § 314, formerly § 320, as added by Pub.L. 93-443, Title II, § 210, Oct. 15, 1974, 88 Stat. 1289; renumbered and amended by Pub.L. 94-283, Title I, §§ 105, 113, May 11, 1976, 90

Stat. 481, 495; and renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 440. [Prohibition of contributions in name of another] Repealed.

[2 U.S.C. § 440 (based on Pub.L. 92-225, Title III, § 310, Feb. 7, 1972, 86 Stat. 19) was repealed by Pub.L. 93-443, § 101(f)(4), Oct. 15, 1974, 88 Stat. 1268, and replaced by a new section 614 of Title 18, U.S.C. Section 614 of Title 18 was repealed by Pub.L. 94-283, § 201(a), May 11, 1976, 90 Stat. 496, and replaced by section 441f of Title 2, U.S.C.]

2 U.S.C. § 441. [Penalties for violations] Repealed.

[2 U.S.C. 441 (based on Pub.L. 92-225, III, § 320, formerly § 321, formerly § 311, Feb. 7, 1972, 86 Stat. 19, renumbered Pub.L. 93-443, § 208(a) and Pub.L. 94-283, § 105) was repealed by Pub.L. 94-283, Title I, § 112(1), May 11, 1976, 90 Stat. 486.]

2 U.S.C. § 441a. Limitations on contributions and expenditures—Dollar limits on contributions

(a)(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term "multicandidate political committee" means a political committee which has been reg-

istered under section 433 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee or a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year of the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For the purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committee, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

DOLLAR LIMITS ON EXPENDITURES BY CANDIDATES FOR OFFICE OF PRESIDENT OF THE UNITED STATES

(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26 (relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section), or $200,000; or

(B) $20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

INCREASES ON LIMITS BASED ON INCREASES IN PRICE INDEX

(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) of this section and subsection (d) of this section shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means the calendar year 1974.

EXPENDITURES BY NATIONAL COMMITTEE, STATE COMMITTEE, OR SUBORDINATE COMMITTEE OF STATE COMMITTEE IN CONNECTION WITH GENERAL ELECTION CAMPAIGN OF CANDIDATES FOR FEDERAL OFFICE

(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election compaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Any expenditure under this paragraph shall be in addition to any expenditure campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the state (as certified under subsection (c) of this section); or

(ii) $20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

CERTIFICATION AND PUBLICATION OF ESTIMATED VOTING AGE POPULATION

During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

PROHIBITED CONTRIBUTIONS AND EXPENDITURES

(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

ATTRIBUTION OF MULTI-STATE EXPENDITURES TO CANDIDATE'S EXPENDITURES LIMITATION IN EACH STATE

(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

SENATORIAL CANDIDATES

(h) Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

Pub.L. 92-225, Title III, § 315, formerly § 320, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 486, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441b. Contributions or expenditures by national banks, corporations, or labor organizations

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b)(1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 79*l*(h) of title 15, the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, tc a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking managerial, professional, or supervisory responsibilities.

Pub.L. 92-225, Title III, § 316, formerly § 321, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 490, renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a)(5), 112(d), Jan. 8, 1980, 93 Stat. 1354, 1366.

2 U.S.C. § 441c. Contributions by Government contractors—Prohibition

(a) It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

SEPARATE SEGREGATED FUNDS

(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 441b of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 411b of this title applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"LABOR ORGANIZATION" DEFINED

(c) For purposes of this section, the term "labor organization" has the meaning given it by section 441b(b)(1) of this title.

Pub.L. 92-225, Title III, § 317, formerly § 322, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 492, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441d. Publication or distributions of political statements and solicitations

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

Pub.L. 92-225, Title III, § 318, formerly § 323, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 493, renumbered and amended by Pub.L. 96-187, Title I, §§ 105(a) (5), 111, Jan. 8, 1980, 93 Stat. 1354, 1365-66.

2 U.S.C. § 441e. Contributions by foreign nationals

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of title 8.

Pub.L. 94-225, Title III, § 319, formerly § 324, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 493, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441f. Contributions in name of another prohibited

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

Pub.L. 92-225, Title III, § 320, formerly § 325, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441g. Limitation on contribution of currency

No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

Pub.L. 92-225, Title III, § 321, formerly § 326, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441h. Fraudulent misrepresentation of campaign authority

No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

Pub.L. 92-225, Title III, § 322, formerly § 327, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494, renumbered by Pub.L. 96-187, Title I, § 105(a)(5), Jan. 8, 1980, 93 Stat. 1354.

2 U.S.C. § 441i. Acceptance of excessive honorariums—Prohibited practices

(a) No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article.

PAYMENT OF HONORARIUM TO CHARITABLE ORGANIZATION

(b) Any honorarium, or any part thereof, paid by or on behalf of an elected or appointed officer or employee of any branch of the Federal Government to a charitable organization shall be deemed not to be accepted for the purposes of this section.

AGGREGATE AMOUNT RECEIVED DURING ANY CALENDAR YEAR

(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

TIME OF ACCEPTANCE OF HONORARIUM

(d) For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

Pub.L. 92-225, Title III, § 323, formerly § 322 as added Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494; amended Pub.L. 95-216, Title V, § 502(a), Dec. 20, 1977, 91 Stat. 1565; renumbered Pub.L. 96-187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354; amended Pub.L. 97-51, § 130(a), Oct. 1, 1981, 95 Stat. 966; amended Pub.L. 98-63, Title I, § 908(g), July 30, 1983, 97 Stat. 338.

2 U.S.C. § 441j. [Penalty for violations] Repealed.

[2 U.S.C. § 441j (based on Pub.L. 92-225, Title III, § 329, as added by Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494) was repealed by Pub.L. 96-187, Title I, § 105(a)(1), Jan. 8, 1980, 93 Stat. 1354.]

2. U.S.C. § 442. Authority to procure technical support and other services and incur travel expenses; payment of such expenses

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972, (1) to procure technical support services, (2) to procure the temporary or intermittent services of individual technicians, experts or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 72a(i) of this title, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to incur official travel expenses. Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 shall be covered into the Treasury as miscellaneous receipts.

Pub.L. 92-342, § 101, July 10, 1972, 86 Stat. 435.

2 U.S.C. § 451. Extension of credit by regulated industries

The The Secretary of Transportastion, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after February 7, 1972, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nominate for election, or election, to such office.

Pub.L. 92-225, Title IV, § 401, Feb. 7, 1972, 86 Stat. 19, as amended by Pub.L. 93-443, Title II, § 201(b) (1), Oct. 15, 1974, 88 Stat. 1275, and as amended by Pub.L. 98443, § 4(a)(7), Oct. 3, 1984, 98 Stat. 1704.

2 U.S.C. § 452. Prohibition against use of certain Federal funds for election activities

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] shall be used to finance directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Community Services Administration who, in his official capacity as such an officer or employee, engages in any such activity.

Pub.L. 92-225, Title IV, § 401, Feb. 7, 1972, 86 Stat. 19, amended by Pub.L. 93-443, Title II, § 201(b)(2), Oct. 15, 1974, 88 Stat. 1275.

2 U.S.C. § 453. State laws effected

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.

Pub.L. 92-225, Title IV, § 403, Feb. 7, 1972 86 Stat. 20, as amended by Pub.L. 93-443, Title III, § 301, Oct. 15, 1974, 88 Stat. 1289.

2 U.S.C. § 454. Partial invalidity

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Pub.L. 92-225, Title IV, § 404, Feb. 7, 1972, 86 Stat. 20

2 U.S.C. § 455. Period of limitations

(a) No person shall be prosecuted, tried, or punished for any violation of subchapter I of this chapter unless the indictment is found or the information is instituted within 3 years after the date of the violation.

(b) Notwithstanding any other provision of law—

(1) the period of limitations referred to in subsection (a) of this section shall apply with respect to violations referred to in such subsection committed before, on, or after the effective date of this section; and

(2) no criminal proceeding shall be instituted against any person for any act or omission which was a violation of any provision of subchapter I of this chapter, as in effect on December 31, 1974, if such act or omission does not constitute a violation of any such provision, as amended by the Federal Election Campaign Act Amendments of 1974.

Nothing in this subsection shall affect any proceeding pending in any court of the United States on January 1, 1975.

Pub.L. 92-225, Title IV, § 406, as added by Pub.L. 93-443, Title III, § 302, Oct. 15, 1974, 88 Stat. 1289-90, as amended by Pub.L. 94-283, Title I, § 115(f), May 11, 1976, 90 Stat. 496.

2 U.S.C. § 456. [Additional enforcement authority] Repealed.

[2 U.S.C. § 456 (which was based on section 407 of Pub.L. 92-225, as added by section 302 of Pub.L. 93-443) was repealed by Pub.L. 94-283, Title I, § 111, May 11, 1976, 90 Stat. 486.]

D. FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

2 U.S.C. § 701. Persons required to file

(a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

(b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O–6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs five days before the date of such hearing. Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

(e) Any individual who occupies a position described in subsection (f) shall, on or before the later of May 15 or the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS-16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16;

(7) the Director of the Office of Government Ethics and each designated agency ethics official;

(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President;

(9) a Member of Congress as defined under section 109(12);

(10) an officer or employee of the Congress as defined under section 109(13);

(11) a judicial officer as defined under section 109(10); and

(12) a judicial employee as defined under section 109(8).

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference of the United States, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year—

(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

(2) the report required by subsection (e) shall be filed as provided in such subsection.

(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

As amended, Pub.L. 101-194, Title II § 302, Nov. 30, 1989, 103 Stat. 1724.

2 U.S.C. § 702. Contents of reports

(a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and such individuals shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,
(ii) greater than $1,000 but not more than $2,500,
(iii) greater than $2,500 but not more than $5,000,
(iv) greater than $5,000 but not more than $15,000,
(v) greater than $15,000 but not more than $50,000,
(vi) greater than $50,000 but not more than $100,000,
(vii) greater than $100,000 but not more than $1,000,000,
or
(viii) greater than $1,000,000.

(2)(A) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

(D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, parent, brother, sister, or child or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of depos-

it or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

(i) the identity of each source of such compensation; and

(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

(C) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(D)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

(A) not more than $15,000;
(B) greater than $15,000 but not more than $50,000;
(C) greater than $50,000 but not more than $100,000;
(D) greater than $100,000 but not more than $250,000;
(E) greater than $250,000 but not more than $500,000;
(F) greater than $500,000 but not more than $1,000,000; and
(G) greater than $1,000,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this

subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(E) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3));

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

(C) an entity described under the provisions of paragraph (8),

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and

(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in, any joint venture or other investment with any interested party; and

(III) is not a relative of any interested party.

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not or has not been a partner of any interested party and is not a partner of, or involved in any joint venture or other investment with any interested party; and

(III) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

(E) For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any minor or dependent child; "broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before the effective date of this section shall continue to be governed by the law and regulations in effect immediately before such effective date.

(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(7) Any trust may be considered to be a qualified blind trust if—

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(A)(i) the fund is publicly traded; or

(ii) the assets of the fund are widely diversified; and

(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1727.

2 U.S.C. § 703. Filing of reports

(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.

(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

(d) Reports required to be filed under this title by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

(e) Each individual identified in section 101(c) shall file the reports required by this title with the Federal Elections Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

(h)(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i) the appropriate congressional ethics committee with regard to a Member of Congress, officer or employee of the Congress described under paragraphs (9) and (10) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position); and

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

(I) the congressional ethics committee designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Senate Select Committee on Ethics for agencies and commissions established in even numbered calendar years, and the Committee on Standards of Official Conduct of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

(B) the Judicial Conference of the United States with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1736.

2 U.S.C. § 704. Failure to file or filing false reports

(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference of the United States, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period,

shall pay a filing fee of $200 to the miscellaneous receipts of the General Treasury.

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1737.

2 U.S.C. § 705. Custody of and public access to reports

(a) Each agency and each supervisory ethics office shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, except that this section does not require public availability of a report filed by—

(1) any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest; or

(2) an independent counsel or person appointed by independent counsel under chapter 40 of title 28, United States Code, whose identity has not otherwise been disclosed.

(b)(1) Each agency and each supervising ethics office shall, within thirty days after any report is received by such agency or office under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. The agency or office may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person's name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or supervising ethics office pursuant to this title shall be retained by such agency or office, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1737.

2 U.S.C. § 706. Review of reports

(a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.

(2) Each congressional ethics committee and the Judicial Conference of the United States shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, after reviewing any report under subsection (a)—

> (A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, a congressional ethics committee, or the Judicial Conference of the United States, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the foreign service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the foreign service or the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference of the United States, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of

such act, be subject to any penalty or sanction provided by this title.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1739.

2 U.S.C. § 707. Confidential reports and other additional requirements

(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1740.

2 U.S.C. § 708. Authority of Comptroller General

(a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1740.

2 U.S.C. § 709. Definitions

For the purposes of this title, the term—

(1) "congressional ethics committees" means the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives;

(2) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

(3) "designated agency ethics official" means an officer or employee who is designated to administer the provisions of this title within an agency;

(4) "executive branch" includes each Executive agency (as defined in section 105 of title 5, United States Code) and any other entity or administrative unit in the executive branch;

(5) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events; or

(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(6) "honoraria" has the meaning given such term in section 505 of this Act;

(7) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(8) "judicial employee" means any employee of the judicial branch of the Government, of the Tax Court, of the Court of Veterans Appeals, or of the United States Court of Military Appeals, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at

or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code;

(9) "Judicial Conference" means the Judicial Conference of the United States;

(10) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands, Court of Claims, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, United States Court of Military Appeals, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

(11) "legislative branch" includes—

(A) the Architect of the Capitol;

(B) the Botanic Gardens;

(C) the Congressional Budget Office;

(D) the General Accounting Office;

(E) the Government Printing Office;

(F) the Library of Congress;

(G) the United States Capitol Police;

(H) the Office of Technology Assessment; and

(I) any other agency, entity, office, or commission established in the legislative branch;

(12) "Member of Congress" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "officer or employee of the Congress" means—

(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

(B)(i) each officer or employee of the legislative branch who is compensated for 60 consecutive days at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and

(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule;

(14) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(15) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(16) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(17) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service;

(18) "supervising ethics office" means—

(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

(C) the Judicial Conference of the United States for judicial officers and judicial employees; and

(D) the Office of Government Ethics for all executive branch employees; and

(19) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1741.

2 U.S.C. § 710. Notice of actions taken to comply with ethics agreements

(a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference of the United States, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference of the United States, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1744.

2 U.S.C. § 711. Administration of provisions

The provisions of this title shall be administered by—

(1) the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section 101(f);

(2) the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f); and

(3) the Judicial Conference of the United States and clerk of the applicable court, as appropriate, in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f).

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1744.

2 U.S.C. § 712. Effective date

The provisions made by this title shall take effect on January 1, 1990, and shall be applicable to reports filed under this title after January 1, 1991.

As amended, Pub.L. 101-194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1744.

E. POLITICAL ACTIVITIES: FEDERAL EMPLOYEES (TITLE 5, UNITED STATES CODE)

5. U.S.C § 7321. Political contributions and services

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 525.

5 U.S.C. § 7322. Political use of authority or influence; prohibition

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 525.

5 U.S.C. § 7323. Political contributions; prohibition

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value of political purposes. An employee who violates this section shall be removed from the service.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 525.

5 U.S.C. § 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(2) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

(1) an employee paid for the appropriation for the office of the President;

(2) the head or the assistant head of an Executive department of military department;

(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

(4) The Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; or

(5) the Recorder of Deeds of the District of Columbia.

Pub.L. 89–554, Sept. 6, 1966, 80 Stat. 525; as amended by Pub.L. 93–268, § 4(a), Apr. 17, 1974, 88 Stat. 87; as amended by Pub.L. 96–54, § 2(a)(44), Aug. 14, 1979, 93 Stat. 384.

5 U.S.C. § 7325. Penalties

An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit Systems Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board.

Pub.L. 89–554, Sept. 6, 1966, 80 Stat. 526; as amended by Pub.L. 96–54, § 2(a)(44), Aug. 14, 1979, 93 Stat. 384.

5 U.S.C. § 7326. Nonpartisan political activity permitted

Section 7324(a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 526.

5 U.S.C. § 7327. Political activity permitted; employees residing in certain municipalities

The Office of Personnel Management may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Office considers it to be in their domestic interests, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

Amended Pub.L. 97-468, Title VI, § 615(b)(1)(E), Jan. 14, 1983, 96 Stat. 2578.

5 U.S.C. § 7328. General Accounting Office employees

The preceding provisions of this subchapter [5 U.S.C. §§ 7321 et seq.] shall not apply to employees of the General Accounting Office.

Added Feb. 15, 1980, Pub.L. 96-191, § 8(e)(1), 94 Stat. 33.

5 U.S.C. § 7351. Gifts to supervisors

An employee may not—

(1) solicit a contribution from another employee for a gift to an official superior;

(2) make a donation as a gift to an official superior; or

(3) accept a gift from an employee receiving less pay than himself.

An employee who violates this section shall be removed from the service.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 527.

5 U.S.C. § 7353. Gifts to Federal employees

(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branches shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by the individual's employing agency; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing for such reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules or regulations established by such individual's supervising ethics office pursuant to paragraph (1).

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of any official act.

(3) Nothing in this section precludes a Member, officer, or employee from accepting gifts on behalf of the United States Government or any of its agencies in accordance with statutory authority.

(c) An employee who violates this section shall be subject to appropriate disciplinary and other remedial action in accordance with any applicable laws, Executive orders, and rules or regulations.

(d) For purposes of this section—

(1) the term "supervising ethics office" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives or the House of Representatives as a whole, for Members, officers, and employees of the House of Representatives;

(B) the Select Committee on Ethics of the Senate, or the Senate as a whole, for Senators, officers and employees of the Senate;

(C) the Judicial Conference of the United States for judges and judicial branch officers and employees;

(D) the Office of Government Ethics for all executive branch officers and employees; and

(E) the ethics committee with which the officer or employee is required to file financial disclosure forms, for all legislative branch officers and employees other than those specified in subparagraphs (A) and (B), except that such authority may be delegated; and

(2) the term "officer or employee" means an individual holding an appointive or elective position in the executive, legislative, or judicial branch of Government other than a Member of Congress.

Added Pub.L. 101-194, Nov. 30, 1989, Title III, §303, 103 Stat. 1746.

F. POLITICAL ACTIVITIES: STATE AND LOCAL EMPLOYEES (TITLE 5, UNITED STATES CODE)

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5 U.S.C. § 1501. Definitions

For the purpose of this chapter—

(1) "State" means a State or territory or possession of the United States;

(2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;

(3) "Federal agency" means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and

(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

As amended Pub.L. 93-443, Title IV, § 401(c), Oct. 15, 1974, 88 Stat. 1290.

5 U.S.C. § 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) be a candidate for elective office.

(b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

(c) Subsection (a)(3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;

(2) the mayor of a city;

(3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit of civil-service system; or

(4) an individual holding elective office.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 404; as amended by Pub.L. 93-443, Title IV, § 401(a), Oct. 15, 1974, 88 Stat. 1290.

5 U.S.C. § 1503. Nonpartisan candidacies permitted

Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected.

As amended Pub.L. 93-443, Title IV, § 401(b)(1), Oct. 15, 1974, 88 Stat. 1290.

5 U.S.C. § 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Special Counsel. On receipt of the report, or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall—

(1) fix a time and place for a hearing; and

(2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice.

Pub.L. 89-544, Sept. 6, 1966, 80 Stat. 405; as amended by Pub.L. 95-454, Title IX, § 906(c)(7), Oct. 13, 1978, 92 Stat. 1225.

5 U.S.C. § 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Merit System Protection Board shall—

(1) determine whether a violation of section 1502 of this title has occurred;

(2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and

(3) notify the officer or employee and the agency of the determination by registered or certified mail.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 405; as amended by Pub.L. 95-454, Title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.

5 U.S.C. § 1506. Orders; withholding loans or grants; limitations

(a) When the Merit Systems Protection Board finds—

(1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Board that he has violated section 1502 of this title and that the violation warrants removal; or

(2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office of employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Board shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years' pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Board order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination or order of the Board becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Board may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 405; as amended by Pub.L. 95-454, Title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.

5 U.S.C. § 1507. Subpenas and depositions

(a) The Merit Systems Protection Board may require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Board may sign subpenas, and members of the Board and its examiners when authorized by the Board may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpena, the Board may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Board, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Board may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Board as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 406; as amended by Pub.L. 95-454, Title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.

5 U.S.C. § 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

(1) the court specifically orders a stay; and

(2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; and the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 406; as amended by Pub.L. 95-454, Title IX, § 906(a)(6), Oct. 13, 1978, 92 Stat. 1225.

G. LIMITATIONS ON OUTSIDE EMPLOYMENT AND ELIMINATION OF HONORARIA

5 U.S.C. Appx. § 501. Outside earned income limitation [title V of the Ethics in Government Act of 1978, as amended]

(a) Outside Earned Income Limitation.—

(1) Except as provided by paragraph (2), a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attibutable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

(2) In the case of any individual who becomes a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer or employee during such calendar year and the denominator of which is 365.

(b) Honoraria Prohibition.—An individual may not receive any honorarium while that individual is a Member, officer or employee.

(c) Treatment of Charitable Contributions.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be received by such Member, officer or employee. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

As amended, Pub.L. 101–194, Title VI, § 601, Nov. 30, 1989, 103 Stat. 1760.

5 U.S.C. Appx. § 502. Limitations on outside employment

A Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall not—

(1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involves a fiduciary relationship for compensation;

(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

(3) practice a profession which involves a fiduciary relationship for compensation;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching, without the prior notification and approval of the appropriate entity referred to in section 503.

As amended, Pub.L. 101-194, Title VI, § 601, Nov. 30, 1989, 103 Stat. 1761.

5 U.S.C. Appx. § 503. Administration

This title shall be subject to the rules and regulations of—

(1) and administered by the committee of the House of Representatives assigned responsibility for administering the reporting requirements of title I with respect to Members, officers and employees of the House of Representatives;

(2) the Office of Government Ethics and administered by designated agency ethics officials with respect to officers and employees of the executive branch; and

(3) and administered by the Judicial Conference of the United States (or such other agency as it may designate) with respect to officers and employees of the judicial branch.

As amended, Pub.L. 101-194, Title VI, § 601, Nov. 30, 1989, 103 Stat. 1761.

5 U.S.C. Appx. § 504. Civil penalties

(a) CIVIL ACTION.—The Attorney General may bring a civil action in any appropriate United States district court against any individual who violates any provision of section 501 or 502. The court in which such action is brought may assess against such individual a civil penalty of not more than $10,000 or the amount of compensation, if any, which the individual received for the prohibited conduct, whichever is greater.

(b) ADVISORY OPINIONS.—Any entity described in section 503 may render advisory opinions interpreting this title, in writing, to individuals covered by this title. Any individual to whom such an advisory opinion is rendered and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of such advisory opinion, acts in good faith in accordance with its provisions and findings shall not, as a result of such actions, be subject to any sanction under subsection (a).

5 U.S.C. Appx. § 505. Definitions

For purposes of this title:

(1) The term "Member" means a Representative in, or an Delegate or Resident Commissioner to, the Congress.

(2) The term "officer or employee" means any officer or employee of the Government except (A) any individual (other than the Vice President) whose compensation is disbursed by the Secretary of the Senate or (B) any special Government employee (as defined in section 202 of title 18, United States Code).

(3) The term "honorarium" means a payment of money or any thing of value for an appearance, speech or article by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

(4) The term "travel expenses" means, with respect to a Member, officer or employee, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

(5) The term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.

As amended, Pub.L. 101-194, Title VI, § 601, Nov. 30, 1989, 103 Stat. 1761-62.

H. CRIMINAL CODE PROVISIONS (TITLE 18, UNITED STATES CODE)

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

18 U.S.C. § 203. Compensation to Members of Congress, officers and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services as agent or attorney or otherwise rendered or to be rended either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, courtmartial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, officer, or employee;

shall be fined under this title or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest,

before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title; and

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties—

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsiblity,

subject to approval by the Government official responsible for appointment to his position.

(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a cotnract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

Added Pub.L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121; amended Pub.L. 91-405, Title II, § 204(d), (2), (3), Sept. 22, 1970, 84 Stat. 853, and as amended, Pub.L. 101-194, Title VI, § 402, Nov. 30, 1989, 103 Stat. 1748.

18 U.S.C. § 210. Offer to procure appointive public office

Whoever pays or offers or promises any money or things of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 62 Stat. 694; § 210, formerly § 214, renumbered Oct. 23, 1962, Pub.L. 87-849, § 1(b), 76 Stat. 1125.

18 U.S.C. § 211. Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than $1,000, or imprisoned not more than one year, or both.

Whoever solicits or receives anything of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined not more than $1,000, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.

June 25, 1948, ch. 645, 62 Stat. 694; § 211, formerly § 215, amended Sept. 13, 1951, ch. 380, 65 Stat. 320: and renumbered Oct. 23, 1962, Pub.L. 87-849, § 1(b), 76 Stat. 1125.

18 U.S.C. § 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

June 24, 1948, ch. 645, 62 Stat. 719.

18 U.S.C. § 593. Interference by Armed Forces

Whoever, being an officer or member of the Armed Forces of the United States prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice, or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—shall be fined not more than $5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

June 25, 1948, ch. 645, 72 Stat. 719.

18 U.S.C. § 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purposes of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 645, 62 Stat. 720; as amended by Pub.L. 91–405, Title II, § 204(d)(5), Sept. 22, 1970, 84 Stat. 853.

18 U.S.C. § 595. Interference by administrative employees of Federal, State, or territorial governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

June 25, 1948, c. 645, 62 Stat. 720; as amended by Pub.L. 91–405, Title II, § 204(d)(6), 84 Stat. 853.

18 U.S.C. § 596. Polling Armed Forces

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

June 25, 1948, ch. 645, 62 Stat. 720.

18 U.S.C. § 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

June 24, 1948, ch. 645, 62 Stat. 721.

18 U.S.C. § 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 645, 62 Stat. 721.

18 U.S.C. § 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $10,000 or imprisoned not more than two years, or both.

June 25, 1948, ch. 645, 62 Stat. 721.

18 U.S.C. § 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as a consideration, favor, or reward for any political activity or for the support of our opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 645, 62 Stat. 721; as amended Pub.L. 92-225, Title II, § 202, Feb. 7, 1972, 86 Stat. 9; and Pub.L. 94-453, § 3, Oct. 2, 1976, 90 Stat. 1517.

18 U.S.C. § 601. Deprivation of employment or other benefit for political contribution

(a) Whoever, directly or indirectly knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate of any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State; if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

(b) As used in this section—

(1) The term "candidate" means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has

given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(2) the term "election" means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

June 25, 1948, ch. 645, 62 Stat. 721; as amended by Pub.L. 94-453, § 1, Oct. 2, 1976, 90 Stat. 1515.

18 U.S.C. § 602. Solicitation of political contributions

It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431(8)) from any other such officer, employee, or person. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

June 25, 1948, ch. 645, 62 Stat. 722; as amended by Pub.L. 96-187, Title II, § 201, Jan. 8, 1980, 93 Stat. 1367.

18 U.S.C. § 603. Making political contributions

(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431(8)) to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election

Campaign Act of 1971 (2 U.S.C. § 432(e)(1)) shall be considered a contribution to the individual who has authorized such committee.

June 25, 1948, ch. 645, 62 Stat. 722; Oct. 31, 1951, ch. 665, § 20(b), 65 Stat. 718; as amended by Pub.L. 96-187, Title II, § 201, Jan. 8, 1980, 93 Stat. 1367.

18 U.S.C. § 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 645, 62 Stat. 722.

18 U.S.C. § 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and whoever receives any such list or names for political purposes shall be fined not more than $1,000 or imprisoned not more than one year, or both.

June 25, 1948, ch. 645, 62 Stat. 722.

18 U.S.C. § 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

June 25, 1948, ch. 645, 62 Stat. 722.

18 U.S.C. § 607. Place of solicitation

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431(8)) in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, *Provided,* That such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and *Provided,* That such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. § 432(e)).

June 25, 1948, ch. 645, 62 Stat. 722; as amended by Pub.L. 96-187, § 201, Jan. 8, 1980, 93 Stat. 1367.

18 U.S.C. § 608. Absent uniformed services voters and overseas voters

(a) Whoever knowingly deprives or attempts to deprive any person of a right under the Uniformed and Overseas Citizens Absentee Voting Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

(b) whoever knowingly gives false information for the purpose of establishing the eligibility of any person to register or vote under the Uniformed and Overseas Citizens Absentee Voting Act, or pays or offers to pay, or accepts payment for registering or voting under such Act shall be fined in accordance with this title or imprisoned not more than five years, or both.

Added Pub.L. 99-410, Title II, § 202(a), Aug. 28, 1986, 100 Stat. 929.

18 U.S.C. § 609. Use of military authority to influence vote of member of Armed Forces

Whoever, being a commissioned, noncommissioned, warrant, or petty officer of an Armed Force, uses military authority to influence the vote of a member of the Armed Forces or to require a member of the Armed Forces to march to a polling place, or attempts to do so, shall be fined in accordance with this title or imprisoned not more than five years, or both. Nothing in this section shall prohibit free discussion of political issues or candidates for public office.

Added Pub.L. 99-410, Title II, § 202(a), Aug. 28, 1986, 100 Stat. 929.

I. INTERNAL REVENUE CODE, POLITICAL CAMPAIGN DEBTS AND CONTRIBUTIONS (TITLE 26, UNITED STATES CODE)

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26 U.S.C. § 84. Transfer of appreciated property to political organization

(a) General rule

If—

(1) any person transfers property to a political organization, and

(2) the fair market value of such property exceeds its adjusted basis,

then for purposes of this chapter the transferor shall be treated as having sold such property to the political organization on the date of the transfer, and the transferor shall be treated as having realized an amount equal to the fair market value of such property on such date.

(b) Basis of property

In the case of a transfer of property to a political organization to which subsection (a) applies, the basis of such property in the hands of the political organization shall be the same as it would be in the hands of the transferor, increased by the amount of gain recognized to the transferor by reason of such transfer.

(c) Political organization defined

For purposes of this section, the term "political organization" has the meaning given to such term by section 527(e)(1).

Added Pub.L. 92-625, § 13(a)(1), Jan. 3, 1975, 88 Stat. 2120.

26 U.S.C. § 271. Debts owed by political parties, etc.

(a) General rule

In the case of a taxpayer (other than a bank as defined in section 581) no deduction shall be allowed under section 166 (relating to bad debts) or under section 165(g) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

(b) Definitions

(1) Political party.—For purposes of subsection (a), the term "political party" means—

(A) a political party;

(B) a national, State, or local committee of a political party; or

(C) a committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice-presidential electors or of any individual whose name is presented for election to any Federal, State, or local elective public office whether or not such individual is elected.

(2) Contributions.—For purposes of paragraph (1)(C), the term "contributions" includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) Expenditures.—For purposes of paragraph (1)(C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift of money, or anything of value, and includes a contract, promise or agreement to make an expenditure, whether or not legally enforceable.

(c) Exception

In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of the taxpayer's trade or business if—

(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

(2) the taxpayer made substantial continuing efforts to collect on the debt.

Aug. 16, 1954, ch. 736, 68 A Stat. 82 as amended Oct. 4, 1976, Pub.L. 94-455, Title XXI, § 2104(a), 90 Stat. 1901.

26 U.S.C. § 276. Certain indirect contributions to political parties

(a) Disallowance of deduction

No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate.

(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate; or

(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

(b) Definitions

For purposes of this section—

(1) Political party.—The term "political party" means—

(A) a political party;

(B) a National, State, or local committee of a political party; or

(C) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or makes expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice-presidential electors, whether or not such individual or electors are selected, nominated, or elected.

(2) Proceeds inuring to or for the use of political candidates.—Proceeds shall be treated as inuring to or for the use of a political candidate only if—

(A) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and

(B) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

(c) Cross reference

For disallowance of certain entertainment, etc., expenses, *see* section 274.

Added Pub.L. 89-368, Title III, § 301(a), Mar. 15, 1966, 80 Stat. 66; and amended Pub.L. 90-364, Title I, § 108(a), June 28, 1968, 82 Stat. 269; as amended by Pub.L. 93-443, § 406(d), Oct. 15, 1974, 88 Stat. 1296, and by Pub.L. 93-625, § 10, Jan. 3, 1975, 88 Stat. 2119.

26 U.S.C. § 527. Political organizations

(a) General rule

A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed

(1) In general.—tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b).

(2) Alternative tax in case of capital gains.—If for any taxable year any political organization has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such a tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

(A) a partial tax, computed as provided by paragraph (1), on the political organization taxable income determined by reducing such income by the amount of such gain, and

(B) an amount determined as provided in section 1201(a) on such gain.

(c) Political organization taxable income defined

(1) Taxable income defined.—For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications.—For purposes of this subsection—

(A) there shall be allowed a specific deduction of $100,

(B) no net operating loss deduction shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income.—For purposes of this subsection, the term "exempt function income" means any amount received as—

(A) a contribution of money or other property,

(B) membership dues, a membership fee or assessment from a member of the political organization,

(C) proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, or

(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) Certain uses not treated as income to candidates

For purposes of this title, if any political organization—

(1) contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) deposits any amount in the general fund of the Treasury or in the general fund of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) Other definitions

For purposes of this section—

(1) Political organization.—The term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) Exempt function.—The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

(3) Contributions.—The term "contributions" has the meaning given to such term by section 271(b)(2).

(4) Expenditures.—The term "expenditures" has the meaning given to such term by section 271(b)(3).

(f) Exempt organization which is not political organization must include certain amounts in gross income

(1) In general.—If an organization described in section 501(c) which is exempt from tax under section 501(a) expends any amount during the taxable year directly (or through another organization) for an exempt function (within the meaning of subsection (e)(2)), then, notwithstanding any other provision of law, there shall be included in the gross income of such organization for the taxable year, and shall be subject to tax under subsection (b) as if it constituted political organization taxable income, an amount equal to the lesser of—

(A) the net investment income of such organization for the taxable year, or

(B) the aggregate amount so expended during the taxable year for such an exempt function.

(2) Net investment income.—For purposes of this subsection, the term "net investment income" means the excess of—

(A) the gross amount of income from interest, dividends, rents, and royalties, plus the excess (if any) of gains from the sale or exchange of assets over the losses from the sale or exchange of assets, over

(B) the deduction allowed by this chapter which are directly connected with the production of the income referred to in subparagraph (A).

For purposes of the preceding sentence, there shall not be taken into account items taken into account for purposes of the tax imposed by section 511 (relating to tax on unrelated business income).

(3) Certain separate segregated funds.—For purposes of this subsection and subsection (e)(1), a separate segregated fund (within the meaning of section 610 of title 18 or of any similar State statute, or within the meaning of any State statute which permits the segregation of dues moneys for exempt functions (within the meaning of subsection (e)(2))) which is maintained by an organization described in section 501(c) which is exempt from tax under section 501(a) shall be treated as a separate organization.

(g) Treatment of newsletter funds

(1) In general.—For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any Federal, State, or local elective public office for use by such individual exclusively for the preparation and circula-

tion of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) Additional modifications.—In the case of any fund described in paragraph (1)—

(A) the exempt function shall be only the preparation and circulation of the newsletter, and

(B) the specific deduction provided by subsection (c)(2)(A) shall not be allowed.

(3) Candidate.—For purposes of paragraph (1), the term "candidate" means, with respect to any Federal, State, or local elective public office, an individual who—

(A) publicly announces that he is a candidate for nomination or election to such office, and

(B) meets the qualifications prescribed by law to hold such office.

(h) Special rule for principal campaign committees

(1) In general.—In the case of a political organization, which is a principal campaign committee, paragraph (1) of subsection (b) shall be applied by substituting "the appropriate rates" for "the highest rate".

(2) Principal campaign committee defined

(A) In general.—For purposes of this subsection, the term "principal campaign committee" means the political committee designated by a candidate for Congress as his principal campaign committee for purposes of—

(i) section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)), and

(ii) this subsection.

(B) Designation.—A candidate may have only 1 designation in effect under subparagraph (A)(ii) at any time and such designation—

(i) shall be made at such time and in such manner as the Secretary may prescribe by regulations, and

(ii) once made, may be revoked only with the consent of the Secretary.

Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.

Added Pub.L. 93-625, § 10(a), Jan. 3, 1975, 88 Stat. 2116, and amended Pub.L. 94-455, Title XIX, § 1901(b)(33)(C), Oct. 4, 1976, 90 Stat. 1801; Pub.L. 95-502, Title III, § 302(a), Oct. 21, 1978, 92 Stat. 1702; Pub.L. 95-600, Title III, § 301(b)(6), Nov. 6, 1978, 92 Stat. 2821; Pub.L. 97-34, Title I, § 128(a), Aug. 13, 1981, 95 Stat. 203; Pub.L. 98-369, Title IV, § 474(r)(16), Title VII, § 722(c) July 18, 1984, 98 Stat. 843, 973; Pub.L. 99-514, Title I, § 112(b)(1), Oct. 22, 1986, 100 Stat. 2108; Pub.L. 100-647, Title I, § 1001(b)(3)(B), Nov. 10, 1988, 102 Stat. 3349.

26 U.S.C. § 2501. Imposition of tax

(a) Taxable transfers

(1) General rule.—A tax, computed as provided in section 2502, is hereby imposed for each calendar year on the transfer of property by gift during such calendar year by any individual, resident or nonresident.

* * * * * * *

(5) Transfers to political organizations.—Paragraph (1) shall not apply to the transfer of money or other property to a political organization (within the meaning of section 527(e)(1)) for the use of such organization.

Section 2501(a)(5) was added by Pub.L. 93-265, § 14(a), Jan. 3, 1975, 88 Stat. 2121, and applies to transfers made after May 7, 1974.

As amended Aug. 13, 1981, Pub.L. 97-34, Title IV, § 442(a)(1), 95 Stat. 320.

J. INTERNAL REVENUE CODE: LOBBYING AND POLITICAL ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS

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26 U.S.C. § 4912. Tax on Disqualifying Lobbying Expenditures of Certain Organizations

(a) Tax on Organization.—If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

(b) On Management.—If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

(c) Organizations to Which Section Applies.—

(1) In general.—Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

(2) Exceptions.—This section shall not apply to any organization—

(A) to which an election under section 501(h) applies.

(B) which is a disqualified organization (within the meaning of section 501(h)(5)), or

(C) which is a private foundation.

(d) Definitions.—

(1) Lobbying expenditures.—The term "lobbying expenditure" means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

(2) Organization manager.—The term "organization manager" has the meaning given to such term by section 4955(f)(2).

(3) Joint and several liability.—If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection.

Added Pub.L. 100–203, Title X, § 10714(a), Dec. 22, 1987, 101 Stat. 1330–470.

26 U.S.C. § 4955. Taxes on political expenditures of section 501(c)(3) organizations

(a) INITIAL TAXES.—

(1) ON THE ORGANIZATION.—There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount therof. The tax imposed by this paragraph shall be paid by the organization.

(2) ON THE MANAGEMENT.—There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause.

The tax imposed by this paragraph shall be paid by an organization manager who agreed to the making of the expenditure.

(b) ADDITIONAL TAXES.—

(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on a political expenditure and such expediture is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the organization.

(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

(2) LIMIT FOR MANAGEMENT.—With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

(d) POLITICAL EXPENDITURE.—For purposes of this section.

(1) IN GENERAL.—The term "political expenditure" means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(2) CERTAIN OTHER EXPENDITURES INCLUDED.—In the case of an organization which is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office for which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term "political expenditure" includes any of the following amounts paid or incurred by the organization.

(A) Amounts paid or incurred to such individual for speeches or other services.

(B) Travel expenses of such individual.

(C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

(D) Expenses of advertising, publicity, and fundraising for such individual.

(E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

(e) COORDINATING WITH SECTION 4945.—If tax is imposed under this section with respect to any political expenditure. Such expenditure shall not be treated as a taxable expenditure for purposes of section 4945.

(f) OTHER DEFINITIONS.—For purposes of this section.—

(1) SECTION 501(c)(3) ORGANIZATION.—The term "section 501(c)(3) organization" means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

(2) ORGANIZATION MANAGER.—The term "organization manager" means—

(A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and

(B) With respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

(3) CORRECTION.—The terms "correction" and "correct" mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

(4) TAXABLE PERIOD.—The term "taxable period" means, with respect to any political expenditure, the period beginning with the date on which the political expenditure occurs and ending on the earlier of—

(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

(B) the date on which tax imposed by subsection (a)(1) is assessed.

Added Pub.L. 100-203, Title X. § 10712(a), Dec. 22, 1987, 101 Stat. 1330-465.

26 U.S.C. § 6012. Persons required to make returns of income

(a) General rule

Returns with respect to income taxes under subtitle A shall be made by the following:

* * * * * * *

(6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable icome (within the meaning of section 527(c)(1) for the taxable year; * * *

26 U.S.C. § 6104(e). Public inspection of certain annual returns and applications for exemption

(1) ANNUAL RETURNS.—

(A) IN GENERAL.—During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

(B) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization which—

(i) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

(ii) is not a private foundation (within the meaning of section 509(a)).

(C) NONDISCLOSURE OF CONTRIBUTORS.—Subparagraph (A) shall not require the disclosure of the name or address of any contributor to the organization.

(D) FILING DATE.—For the purposes of subparagraph (A), the term "filing date" means the last day prescribed for filing the return under section 6033 (determined with regard to any extension of time for filing).

(2) APPLICATION FOR EXEMPTION.—

(A) IN GENERAL.—If—

(i) an organization described in subsection (c) or (d) of section 501 is exempt from taxation under section 501(a), and

(ii) such organization filed an application for recognition of exemption under section 501,

a copy of such application (together with a copy of any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application) shall be made available by the organization for inspection during regular business hours by an individual at the principal office of the organization, and, if the organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

(B) NONDISCLOSURE OF CERTAIN INFORMATION.—Subparagraph (A) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D)

Pub.L. 100-203, Title X, § 10702(a), Dec. 22, 1987, 101 Stat. 1330-459.

26 U.S.C. § 6113. Disclosure of nondeductibility of contributions

(a) GENERAL RULE.—Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

(b) ORGANIZATIONS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

(B) is a political organization (as defined in section 527(e)), or

(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

(2) EXCEPTION FOR SMALL ORGANIZATIONS.—

(A) ANNUAL GROSS RECEIPTS DO NOT EXCEED $100,000.—This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than $100,000.

(B) MULTIPLE ORGANIZATION RULE.—The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of mulitiple organizations.

(3) SPECIAL RULE FOR CERTAIN FRATERNAL ORGANIZATIONS.—For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

(c) FUNDRAISING SOLICITATION.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "fundraising solicitation" means any solicitation of contributions or gifts which is made—

(A) in written or printed form,

(B) by television or radio, or

(C) by telephone.

(2) EXCEPTION FOR CERTAIN LETTERS OR CALLS.—The term "fundraising solicitation" shall not include any letter or tele-

phone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year.

Added Pub.L. 100-203, Title X, § 10701(a), Dec. 22, 1987, 101 Stat. 1330-457.

26 U.S.C. § 6652(c). Returns by exempt organizations and by certain trusts

(1) ANNUAL RETURNS UNDER SECTION 6033.—

(A) PENALTY ON ORGANIZATION.—In the case of—

(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization $10 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $5,000 or 5 percent of the gross receipts of the organization for the year.

(B) MANAGERS.—

(i) IN GENERAL.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failure with respect to any 1 return shall not exceed $5,000.

(C) PUBLIC INSPECTION OF ANNUAL RETURNS.—In the case of failure to comply with the requirements of subsection (d) or (e)(1) of section 6401 (relating to public inspection of annual returns) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION.—In the case of a failure to comply with the requirements of section 67104(e)(2) (relating to the public inspection of applications for exemption) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues.

(2) RETURNS UNDER SECTION 6034 OR 6043(b).—

(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(4) OTHER SPECIAL RULES.—

(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

(C) PERSON.—For purposes of this subsection, the term "person" means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs.

Pub.L. 100-203, Title X, §§ 10502(d)(11), 10704(a), Dec. 22, 1987, 101 Stat. 1330-461.

26 U.S.C. § 6710. Failure to disclose that contributions are nondeductible

(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

(A) $1,000, or

(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

(3) such peanlty shall not be taken into account in applying such limitation to other penalties under subsection (a).

(d) DAY ON WHICH FAILURE OCCURS.—for purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

(2) by mail, shall be treated as occurring when the solicitation was mailed,

(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

(4) by telephone, shall be treated as occurring when the solicitation was made.

Added Pub.L. 100-203, Title X, § 10701(b) Dec. 22, 1987, 101 Stat. 1330-458.

26 U.S.C. § 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government

(a) IMPOSITION OF PENALTY.—If—

(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government.

(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

(3) such failure is due to intentinal disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

(b) AMOUNT OF PENALTY.—The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

(1) $1,000, or

(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

(c) Definitions.—For purposes of this section—

(1) Tax-exempt organization.—The term "tax-exempt organization" means any organization which—

(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

(B) is a politcal organization (as defined in section 527(e)).

(2) Day on which failure occurs.—The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d).

Added Pub. L. 199-203, Title X, § 10705(a), Dec. 22, 1987, 101 Stat. 1330-463.

26 U.S.C. § 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations

(a) Authority To Make.—

(1) In general.—If the Secretary finds that—

(A) a section 501(c)(3) organization has made political expenditures, and

(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

(2) Computation of tax.—In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into acccount any prior determination made under this subsection with respect to such current taxable year.

(3) Treatment of amounts collected.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

(4) SECTION INAPPLICABLE TO ASSESSMENTS AFTER DUE DATE.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date or the organization's return for such taxable year (determined with regard to any extensions).

(b) DEFINITIONS AND SPECIAL RULES.—

(1) DEFINITIONS.—For purposes of this section, the term "section 501(c)(3) organization," "political expenditure," and "organization manager" have the respective meanings given to such terms by section 5955.

(2) CERTAIN RULES MADE APPLICABLE.—The provisions of section 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists.

Added Pub.L. 100-203, Title X, § 1071d(b)(1), Dec. 22, 1987, 101 Stat. 1330-469.

26 U.S.C. § 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organization

(a) AUTHORITY TO SEEK INJUNCTION.—

(1) IN GENERAL.—If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

(2) REQUIREMENTS.—An action may be brought under subsection (a) only if—

(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

(B) the Commissioner of Internal Revenue has personally determined that—

(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(ii) injunctive relief is appropriate to prevent future political expenditures.

(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

(1) such organization had flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

(2) injunctive relief is appropriate to prevent future political expenditures, the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

(c) DEFINITIONS.—For purposes of this section, the terms "section 501(c)(3) organization" and "political expenditures" have the respective meanings given to such terms by section 4955.

Added Pub.L. 100-203, Title X, § 10713(a)(1), Dec. 22, 1987, 101 Stat. 1330-468.

K. USE OF FRANKED MAIL (TITLE 39, UNITED STATES CODE)

39 U.S.C. § 3201. Definitions

As used in this chapter.—

(1) "penalty mail" means official mail, other than franked mail, which is authorized by law to be transmitted in the mail without prepayment of postage;

(2) "penalty cover" means envelopes, wrappers, labels, or cards used to transmit penalty mail;

(3) "frank" means the autographic or facsimile signature of persons authorized by sections 3210–3216 and 3218 of this title to transmit matter through the mail without prepayment of postage or other indicia contemplated by sections 733 and 907 of title 44;

(4) "franked mail" means mail which is transmitted in the mail under a frank; and

(5) "Members of Congress" includes Senators, Representatives, Delegates, and Resident Commissioners.

39 U.S.C. § 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials

(a)(1) It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.

(2) It is the intent of the Congress that such official business, activities, and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in the connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.

(3) It is the intent of the Congress that mail matter which is frankable specifically includes, but is not limited to—

(A) mail matter to any person and to all agencies and officials of Federal, State, and local governments regarding programs, decisions, and other related matters of public concern or public service, including any matter relating to actions of a past or current Congress;

(B) the usual and customary congressional newsletter or press release which may deal with such matters as the impact of laws and decisions on State and local governments and individual citizens; reports on public and official actions taken by Members of Congress; and discussions of proposed or pending legislation or governmental actions and the positions of the Members of Congress on, and arguments for or against such matters;

(C) the usual and customary congressional questionnaire seeking public opinion on any law, pending or proposed legislation, public issue, or subject;

(D) mail matter dispatched by a Member of Congress between his Washington office and any congressional district offices, or between his district offices;

(E) mail matter directed by one Member of Congress to another Member of Congress or to representatives of the legislative bodies of State and local governments;

(F) mail matter expressing congratulations to a person who has achieved some public distinction;

(G) mail matter, including general mass mailings, which consists of Federal laws, Federal regulations, other Federal publications, publications purchased with Federal funds, or publications containing items of general information;

(H) mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner;

(I) mail matter which constitutes or includes a biography or autobiography or autobiographical material concerning such Member or Member-elect or the spouse of other members of the family of such Member or Member-elect and which is so mailed as part of a federal publication or in response to a specific request therefor and is not included for publicity purposes in a newsletter or other general mass mailing of the Member or Member-elect under the franking privilege; or

(J) mail matter which contains a picture, sketch, or other likeness of any Member or Member-elect and which is so mailed as a part of a federal publication or in response to a specific request therefor and, when contined in a newsletter or other general mass mailing of any Member or Member-elect, is not of such size, or does not occur with such frequency in the mail matter concerned, as to lead to the conclusion that the purpose of such picture, sketch, or likeness is to advertise the Member or Member-elect rather than to illustrate accompanying text.

(4) It is the intent of the Congress that the franking privilege under this section shall not permit, and may not be used for, the transmission through the mails as franked mail, of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business activities, and duties of the public officials covered by subsection (b)(1) of this section.

(5) It is the intent of Congress that a Member of or Member-elect to Congress may not mail as franked mail—

(A) mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any member of, or Member-elect to, Congress on a purely personal or political basis rather than on the basis of performance of official duties as a Member or on the basis of activities as a Member-elect;

(B) mail matter which constitutes or includes—

(i) greetings from the spouse or other members of the family of such Member or Member-elect, unless it is a brief reference in otherwise frankable mail:

(ii) reports of how or when such Member or Member-elect, or the spouse or any other member of the family of such Member or Member-elect, spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Member or the activities of such Member-elect as a Member-elect; or

(iii) any card expressing holiday greetings from such Member or Member-elect; or

(C) mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office.

(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

(II) is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.

(B) Any mass mailing which is mailed by the chairman of any organization referred to in the last sentence of section 3215 of this title relates to the normal and regular business of the organization may be mailed without regard to the provisions of this paragraph.

(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

(D) The Select Committee on Ethics of the Senate and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations, and shall take other action as the Committee or the Commission considers necessary and proper for Members and Members-elect to comply with the provisions of this paragraph and applicable rules and regulations. The rules and regulations shall include provisions prescribing the time within which mailings shall be mailed at or delivered to any postal facility and the time when the mailings shall be deemed to have been mailed or delivered to comply with the provisions of this paragraph.

(E) For purposes of this section, the term "mass mailing" means newsletters and similar mailings of more than five hundred pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—

(i) which are in direct response to communications from persons to whom the matter is mailed;

(ii) to colleagues in the Congress or to government officials (whether Federal, State, or local); or

(iii) of news releases to the communications media.

(b)(1) The Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives and the Senate Legal Counsel may send, as franked mail, matter relating to their official business, activities, and duties, as intended by Congress to be mailable as franked mail under subsection (a)(2) and (3) of this section.

(2) If a vacancy occurs in the Office of the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), or the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives or the Senate Legal Counsel, any authorized person may exercise the franking privilege in the officer's name during the period of the vacancy.

(3) The Vice President, each Member of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, and each of the elected officers of the House (other than a Member of the House), during the 90-day period immediately following the date on which they leave office, may send, as franked mail, matter on official business relating to the closing of their respective offices. The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations, and shall take such other action as the Commission or Committee considers necessary and proper, to carry out the provisions of this paragraph.

(c) Franked mail may be in any form appropriate for mail matter, including, but not limited to, correspondence, newsletters, questionnaires, recordings, facsimiles, reprints, and reproductions. Franked mail shall not include matter which is intended by Congress to be non-mailable as franked mail under subsection (a)(4) and (5) of this section.

(d)(1) A Member of Congress may mail franked mail with a simplified form of address for delivery—

(A) within that area constituting the congressional district or State from which he was elected; and

(B) with respect to a Member of the House of Representatives on and after the date on which the proposed redistricting of congressional districts in his State by legislative or judicial proceedings is initially completed (whether or not the redistricting is actually in effect), within any additional area of each congressional district proposed or established in such redistricting and containing all or part of the area constituting the congressional district from which he was elected, unless and until the congressional district so proposed or established is changed by legislative or judicial proceedings.

(2) A Member-elect to the Congress may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district or the State from which he was elected.

(3) A Delegate, Delegate-elect, Resident Commissioner, or Resident Commissioner-elect to the House of Representatives may mail franked mail with a simplified form of address for delivery within the area from which he was elected.

(4) Any franked mail which is mailed under this subsection shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

(5) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective House rules and regulations governing any franked mail which is mailed under this subsection and shall by regulation limit the number of such mailings allowed under this subsection.

(6)(A) Any Member of, or Member-elect to, the House of Representatives entitled to make any mailing as franked mail under this subsection shall, before making any mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.

(B) The Senate Select Committee on Ethics may require any Member of, or Member-elect to, the Senate entitled to make any mailings as franked mail under this subsection to submit a sample or description of the mail matter to the Committee for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.

(b) This section shall become effective 120 days after the date of enactment of this Act.

(7) Franked mail mailed with a simplified form of address under this subsection—

(A) shall be prepared as directed by the Postal Service; and

(B) may be delivered to—

(i) each box holder or family on a rural or star route;

(ii) each post office box holder; and

(iii) each stop or box on a city carrier route.

(8) For the purposes of this subsection, a congressional district includes, in the case of a Representative at Large or Representative at Large-elect, the State from which he was elected.

(e) The frankability of mail matter shall be determined under the provisions of this section by the type and content of the mail sent, or to be sent.

(f) Any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.

(g) Notwithstanding any other provision of Federal, State, or local law, or any regulation thereunder, the equivalent amount of postage determined under section 3216 of this title on franked mail mailed under the frank of the Vice President or a Member of Congress, and the cost of preparing or printing such frankable matter for such mailing under the frank, shall not be considered as a contribution to, or an expenditure by, the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official, imposed by any Federal, State, or local law or regulation, in connection with any campaign of such official or election to any Federal office.

Pub.L. 91-375, Aug. 12, 1970, 84 Stat. 754; amended Pub.L. 92-51, § 101, July 9, 1971, 85 Stat. 132; Pub.L. 93-191, § 1(a), Dec. 18, 1973, 87 Stat. 737; Pub.L. 94-177, Dec. 23, 1975, 89 Stat. 1032; Pub.L. 95-521, Oct. 26, 1978, 92 Stat. 1884), as amended by Pub.L. 97-69, Oct. 26, 1981 and as amended by Pub.L. 97-263, § 1(1), (2), Sept. 24, 1982, 96 Stat. 1132.

39 U.S.C. § 3211. Public documents

The Vice President, Members of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House) during the 90-day period immediately following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress.

Pub.L. 91-375, Aug. 12, 1970, 84 Stat. 754; amended Pub.L. 93-191, § 2, Dec. 18, 1973, 87 Stat. 741 and as amended by Pub.L. 97-69, Oct. 26, 1981.

39 U.S.C. § 3212. Congressional Record under frank of Members of Congress

(a) Members of Congress may send the Congressional Record as franked mail.

(b) Members of Congress may send, as franked mail, any part of, or a reprint any part of, the Congressional Record, including speeches or reports contained therein, if such matter is mailable as franked mail under section 3210 of this title.

Pub.L. 91-375, Aug. 12, 1970, 84 Stat. 754; amended Pub.L. 93-191, § 3, Dec. 18, 1973, 87 Stat. 741.

39 U.S.C. § 3213. Seeds and reports from Department of Agriculture

Seeds and agriculture reports emanating from the Department of Agriculture may be mailed—

(1) as penalty mail by the Secretary of Agriculture; and

(2) during the 90-day period immediately following the expiration of their terms of office, as franked mail by Members of Congress

Pub.L. 91-375, Aug. 12, 1970, § 2, 84 Stat. 754, and as amended by Pub.L. 97-69, Oct. 26, 1981.

39 U.S.C. § 3215. Lending or permitting use of frank unlawful

A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any standing, select, special, or joint committee, or subcommittee thereof, or commission, of the Senate, House of Representatives, or Congress, composed of Members of Congress, or to the Democratic caucus or the Republican conference of the House of Representatives or of the Senate.

Pub.L. 91-375, Aug. 12, 1970, 84 Stat. 754; amended Pub.L. 93-191, § 10, Dec. 18, 1973, 87 Stat. 746.

39 U.S.C. § 3216. Reimbursement for franked mailings

(a) The equivalent of—

(1) postage on, and fees and charge in connection with, mail matter sent through the mails—

(A) under the franking privilege (other than under section 3219 of this title), by the Vice President, Members of and Members-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives and the Senate Legal Counsel; and

(B) by the survivors of a Member of Congress under section 3218 of this title; and

(2) those portions of fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of this title;

shall be paid by a lump-sum appropriation to the legislative branch for that purpose and then paid to the Postal Service as postal revenue. Except as to Mailgrams and except as provided by sections 733 and 907 of title 44, envelopes, wrappers, cards, or labels used to tramsmit franked mail shall bear, in the upper right-hand corner, the sender's signature, or a facsimile thereof.

(b) Postage on, and fees and charges in connection with, mail matter sent through the mails under section 3214 of this title shall be paid each fiscal year, out of any appropriation made for that purpose, to the Postal Service as postal revenue in an amount equivalent to the postage, fees, and charges which would otherwise be payable on, or in connection with, such mail matter.

(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith.

(d) Money collected for matter improperly mailed under the franking privilege shall be deposited as miscellaneous receipts in the general fund of the Treasury.

Pub.L. 91-375, Aug. 12, 1970, 84 Stat. 754; Pub.L. 92-51, § 101, July 9, 1971, 85 Stat. 132; Pub.L. 93-191, § 7, Dec. 18, 1973, 87 Stat. 745; Pub.L. 93-255; § 2(a), Mar. 27, 1974, 88 Stat. 52; Pub.L. 95-525, § 714(b), Oct. 26, 1978, 92 Stat. 1884; by Pub.L. 97-69, Oct. 26, 1981; and as amended by Pub.L. 97-263, § (3), Sept. 24, 1982, 96 Stat. 1132.

39 U.S.C. § 3218. Franked mail for surviving spouses of Members of Congress

Upon the death of a Member of Congress during his term of office, the surviving spouse of such Member (or, if there is no surviving spouse, a member of the immediate family of the Member designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, in accordance with rules and procedures established by the Secretary or the Clerk) may send, for a period not to exceed 180 days after his death, as franked mail, nonpolitical correspondence relating to the death of the Member.

Pub.L. 91-375, Aug. 12, 1970, § 2, 84 Stat. 755; Pub.L. 93-191, Dec. 18, 1973, § 11, 87 Stat. 746, and as amended by Pub.L. 97-69, Oct. 26, 1981.

39 U.S.C. § 3219. Mailgrams

Any Mailgram sent by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives or the Senate Legal Counsel, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(2) of this title, if such Mailgram contains matter of the kind authorized to be sent by that official as franked mail under section 3210 of this title.

Added Pub.L. 93-191, § 12(a), Dec. 18, 1973, 87 Stat. 746; Pub.L. 95-521, Title VII, § 714(c), Oct. 26, 1978, 92 Stat. 1884; and as amended by Pub.L. 97-263, § (4), Sept. 24, 1982, 96 Stat. 1132.

Advisory Opinions (Title 2, United States Code) re Franking Privilege

2 U.S.C. § 502. Select Committee on Ethics of the Senate

(a) Advisory opinions of consultations respecting franked mail for persons entitled to franking privilege; franking privilege regulations

The Select Committee on Standards and Conduct [Select Committee on Ethics] of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplating mailing of franked mail under section 3210, 3211, 3212, 3213(2), 3218, or 3219 and in connection with the operation of section 3215, of Title 39 upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Complaint of franked mail violations; investigation; notice and hearing; decision of select committee; enforcement

Any complaint filed by any persons with the select committee that a violation of any section of Title 39 referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of one year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by the complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision of each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decisions shall be based on written findings of fact in the case by the select committee. If the select committee finds in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Administrative or judicial jurisdiction of civil actions respecting franking law violations or abuses of franking privilege dependent on filing of complaint with select committee and rendition of decision by such committee

Not withstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) Administrative procedure regulations

The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interest. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559 and 701–706, of Title 5. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) Property of Senate; records of select committee; voting record; location of records, data, and files

The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

Pub.L. 93–191, § 6, Dec. 18, 1973, 87 Stat. 743; amended Pub.L. 93–255, § 3(b), Mar. 27, 1974, 88 Stat. 52.

Regulations Governing Mass Mail

As directed by Public Laws 97–69 and 99–87 and pursuant to other authorities, it is resolved by the Committee on Rules and Administration of the United States Senate, that use of Senate resources and facilities for preparing and sending any mass mailing shall be subject to the following regulations.

DEFINITIONS

SECTION 1. As used in these regulations—

(a) "mass mailing" has the meaning given it in section 3210(a)(6)(E) of title 39, United States Code;

(b) "postal patron mail" means any mass mailing prepared and mailed pursuant to section 3210(d)(7) of such title;

(c) "name addressed mail" means any mass mailing sent to named individuals at specific addresses;

(d) "town meeting notice" means any mass mailing, consisting of notices printed on 4.25-inch by 6-inch or 6-inch by 8.5-inch post card stock, announcing the time and place at which a Senator or a member or members of his or her staff will be available to meet constituents regarding legislative issues or problems with Federal programs;

(e) "newsletter" means any professionally photocomposed mass mailing consisting of document which set forth, in textual and graphic form (or both), factual information and commentary on prospective, pending, or past issues of public policy;

(f) "opinion survey" means any assemblage of mass mailings and related individual mailings, including, but not limited to, survey questionnaires, presurvey letters, response forms, follow-up letters, and instructions that are sent to a sample group of individuals for the purpose of obtaining a reliable estimate of the opinion of the population from which the survey sample is drawn and are processed in accordance with the "Guidelines for Opinion Surveys" issued by the Committee on Rules and Administration in September 1979.

NOTICE OF COST

SEC. 2. Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be included in the semi-annual Report of the Secretary of the Senate.

RESTRICTIONS ON THE USE OF MASS-MAIL PRIOR TO A BIENNIAL FEDERAL GENERAL ELECTION

SEC. 3. A Senator to whom the provisions of paragraph 1 of Rule XL of the Standing Rules of the Senate do not apply shall not send any mass mailing, except town-meeting notices and opinion surveys, during the period beginning 60 days before the date of any biennial Federal general election.

PAPER ALLOWANCE

SEC. 4. (a)(1)(A) The Secretary of the Senate shall provide each Senator with one and one-third sheets of blank paper per year per adult constituent as reported by the Bureau of the Census, except that no Senator shall be provided with fewer than 1.8 million sheets per year.

(a)(1)(B) The Secretary of the Senate shall provide each Senator with letterhead paper and envelopes in the following quantities:

Senators from States with total resident populations under 3 million, 180,000 sheets and 180,000 envelopes;

Senators from States with total resident populations between 3 and 4 million, 240,000 sheets and 240,000 envelopes;

Senators from States with total resident populations between 4 and 5 million, 300,000 sheets and 300,000 envelopes;

Senators from States with total resident populations between 5 and 12 million, 360,000 sheets and 360,000 envelopes; and

Senators from States with total resident populations over 12 million, 420,000 sheets and 420,000 envelopes.

(a)(2) Portions of a Senator's allowance for paper which are unused at the end of a year may be used during the following year after the allowance for such following year has been exhausted. Portions of such allowances for any year which are unused at the end of the year following the year such allowance accrues shall lapse and shall not be available for use thereafter.

(a)(3) Portions of a Senator's allowance for paper which are unused at the time such Senator resigns, retires, or otherwise leaves office shall lapse and shall not be available for use for newsletters thereafter.

(a)(4) No portion of the paper allowance of any Senator may be given or otherwise transferred to another Senator or office.

(a)(5) Accumulated reserves of paper under the control of the Secretary to the Majority and the Secretary to the Minority are abolished.

(a)(6) In order to preclude the inadvertent production of mass mailing material in excess of a Senator's paper allowance, the Secretary of the Senate shall provide the Sergeant at Arms with a monthly report of the status of each Senator's allowance.

(b)(1) The Secretary of the Senate shall provide each office set forth below with 180,000 sheets of blank paper, 180,000 sheets of letterhead paper, and 180,000 envelopes annually.

Each standing committee of the Senate.
Each select committee of the Senate.
Each special committee of the Senate.

(b)(2) Portions of an allowance for paper made by section 4(b)(1) which are unused at the end of a year shall not be available for use thereafter.

(c) The Secretary of the Senate shall provide each office set forth below with such quantities of paper and envelopes as may be necessary for the performance of their official duties. No portion of an allowance for paper made by this subsection may be given or otherwise transferred to a Senator or an office set forth in subsection 4(b)(1); except that paper from the allowance of the Sergeant at Arms may be used to reprint matter previously printed and charged to the allowance of another office when (1) such previously printed matter is found to be in error (if such error is caused by the Service Department) and is destroyed prior to distribution or (2) such reprinted matter is noted as a corrected version of such previously printed matter if such previously printed matter is distributed before the discovery of an error caused by the Service Department.

The Joint Committee on the Library.
The Joint Committee on Printing.
The Joint Committee on Taxation.
The Joint Economic Committee.
The President of the Senate.
The President Pro-Tempore.
The Majority Leader of the Senate.
The Assistant Majority Leader of the Senate.
The Secretary for the Majority.
The Minority Leader of the Senate.
The Assistant Minority Leader of the Senate.
The Secretary for the Minority.
The Republican Conference.
The Republican Policy Committee.
The Republican Steering Committee.
The Democratic Conference.
The Democratic Policy Committee.
The Democratic Steering Committee.
The Architect of the Capitol, including the Senate Restaurants, and the Superintendent of the Senate Office Buildings.
The Attending Physician.
The Capitol Police.
The Chaplain of the Senate.

The Secretary of the Senate, including all offices reporting thereto.

The Senate Legislative Counsel.

The Senate Legal Counsel.

The Senate Sergeant at Arms, including all offices reporting thereto.

The Congressional Budget Office.

The Office of Technology Assessment.

The Democratic Senatorial Campaign Committee.

The Republican Senatorial Campaign Committee.

The Senate Employees' Federal Credit Union.

Defense Liaison offices.

The Press Galleries.

(d) For purposes of these regulations blank paper measures 8.5 inches by 11 inches or 8.5 inches by 14 inches and letterhead paper measures 8.5 inches by 11 inches.

(e) For purposes of this section, a year begins at 12:01 A.M. on January 3. Paper for any mass-mailing the work order for which is submitted prior to midnight on January 2 of any year will be charged to the allotment for such year ending on January 2 (or in the case of Senators to the previous year if the allotment for such year is depleted) provided the office for which such mass-mailing is being prepared gives the Service Department final clearance for printing ("blue line approval") by close of business the following February 14. If final clearance for printing is not given by close of business on February 14, the work order for such work shall be cancelled and, if the office still desires to have the work completed, a new work order shall be prepared and the paper charged to the year in which such work order is dated. Costs incurred in processing a work that is cancelled because the final clearance for printing was not received prior to close of business February 14 shall be reported in the cost report for the quarter ending March 31.

ENVELOPES

SEC. 5. Envelopes shall not be used to send newsletters or town meeting notices.

USE OF POSTAL PATRON AND THIRD CLASS MAIL

SEC. 6. (a) Town meeting notices shall be processed as postal patron mail, unless (1) sending name addressed mail to selected persons in the area served by the town meeting would be more economical, or (2) the town meeting is to be on a subject or subjects that would not be of interest to all the people who would receive a postal patron mailing. Paper used for town meeting notices which announce only the time and place at which a Senator will be available in his or her State to meet constituents shall not be charged to such Senator's paper allowance.

(b) The Sergeant at Arms shall send all name addressed mailings by the most economical means practical, taking postage rates and handling costs in the Office of the Sergeant at Arms into consideration.

(c) All mass mailings (when the Senator intends to use the mailing list for more than one additional mailing) which are not processed as postal patron mail shall bear the endorsement "Return Postage Guaranteed" and the endorsement "Attention Postmaster—OCR—Please Do Not Mark On or Above the Label," and shall bear no other endorsement; except that, a mass mailing may contain the endorsement "Address Correction Requested" if the Senator making such mailing certifies in writing to the Sergeant at Arms and Doorkeeper of the Senate, at the time of such mailing, that the mailing list employed in such mailing has been revised so as to take account of all address corrections received by such Senator in connection with all mass mailings, to persons on that list, mailed by such Senator after September 1, 1983.

(d) Newsletters may be processed as postal patron mail.

RETURNED MAIL

SEC. 7. (a)(1) Mass mail sent without the endorsement "Address Correction Requested" and returned as undeliverable shall be processed by the Sergeant at Arms through the Optical Character Recognition machine to remove the names and address from the appropriate mail file. Such mail which can be processed by the Optical Character Recognition machine shall be sent to the office for which it was mailed for further processing. Lists of names and addresses removed from mail files through use of the Optical Character Recognition machine shall be sent to the offices for which they were removed.

(2)(A) Mass mail sent with the endorsement "Address Correction Requested" and returned as undeliverable shall be sent to the office for which it was mailed. The office shall separate the mail into two groups: that bearing address correction information and that not bearing address correction information. The group not containing address correction information shall be returned to the Sergeant at Arms for processing through the Optical Character Recognition machine as set forth in paragraph (1). The group containing address correction information shall be used by the office to correct the mail file.

(B) Optionally, an office may elect to have all such mail processed initially through the Optical Character Recognition machine and then all sent to the office for further processing.

(b)(1) The Sergeant at Arms shall maintain records on the portions of the mass mailings of each Senator that are returned as undeliverable sufficient to ascertain the total number of pieces of such mass mailings so returned to such Senator and the percentage of each such mass mailing of such Senator that is so returned, to the extent that such percentages can reasonably be determined.

(2) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms shall send to each Senator a statement setting forth the information compiled on such Senator's mass mailings pursuant to paragraph (1), and shall send a compilation of all such statements to the Committee on Rules and Administration.

FRANKED RESPONSES AND RETURN OF SURVEY QUESTIONNAIRES

SEC. 8. (a) The Sergeant at Arms shall not print or mail under the frank any mass mailing which contains questions the answers to which recipients are invited or encouraged to return on a form bearing the frank provided for that purpose. This section does not apply to opinion surveys as defined in section 1(f) or to mailings to colleagues in Congress, to Government officials (whether Federal, State, or local), or to the communications media.

(b) Any mass mailing containing questions that recipients are invited or encouraged to answer shall contain instructions to the recipients on how properly to return their responses, including information on whether or not return postage is required.

SPECIAL PROCEDURES FOR RESPONSES TO ORGANIZED MAIL CAMPAIGNS

SEC. 9. (a) Whenever a Senator determines that he or she is the recipient of mail generated by an organized mail campaign and that the resources of his or her office are not sufficient to enter the names and addresses into the Corrrespondence Management System or its equivalent, the Senator may send the incoming mail, segregated by issue if appropriate, to the Sergeant at Arms of the Senate. On receipt of such mail the Sergeant at Arms shall cause the names and addresses to be converted to machine readable media and added to the newsletter mail file for production of labels for use with post card or "dear friend" letter responses from the Senator.

(b) In carrying out his duties under subsection (a) of this section, the Sergeant at Arms shall cause such conversions to be performed by a commercial vendor or vendors under contracts approved by the Committee on Rules and Administration.

(c) Expenses for work performed in accordance with this section shall be paid from funds of the Sergeant at Arms and shall be reported on the quarterly reports required by section 2.

(d) Paper used for "dear friend" letters or post cards processed in accordance with this section shall not be charged to Senators' paper allowances.

PICTURES OF MISSING CHILDREN

SEC. 10. (a) All mass-mailings, except town-meeting notices, that are mailed as "self-mailers" shall bear on the address panel a picture of and information about a missing child, and all letters prepared with the Senate Correspondence Management System (CMS) that are folded, inserted in envelopes, and mailed by the Senate Service Department shall be inserted in window envelopes bearing the picture of and information about the same missing child whose picture appears on mass-mailings mailed during the same workweek, unless (1) the Senator, committee chairman, or other office head for whom a mass-mailing or CMS mailing is being sent directs that such picture and information not be printed on a particular mailing, or (2) the Director of the Senate Service Department finds that the printing of such pictures and information will significantly slow the processing of the mail. No other official mail of the Senate shall be used for the mass dissemination of pictures of and information about missing children.

(b) Only pictures of and information about missing children that are provided by the National Center for Missing and Exploited Children (hereinafter in this section referred to as the Center) are to be printed on mass-mail and envelopes subject to this section. The Senate Service Department shall be the liaison with the Center for obtaining such pictures and information.

(c) The Director of the Senate Service Department, in consultation with the Executive Director of the Center or his or her designee, shall make arrangements to receive from the Center by noon Wednesday of each fourth week photographs of and information about four missing children to be used in the preparation of printing plates for mass-mailings and CMS window envelopes subject to this section during the following four work-weeks.

(d)(1) The picture and information for a particular work-week shall be made part of the printing plates prepared during such week for mass-mailings subject to this section that have received final clearance for printing ("blue line approval") from the Senators, committee chairmen or other office heads for whom the mass-mailings are being prepared. To the greatest extent practicable, all such printing plates prepared during a work-week shall bear the photograph of and information about the same missing child. If the printing of a mass-mailing extends into the following week or weeks, the printing plates for such mailing need not be changed. Whenever information is received from the Center that a child has been found whose picture and information are currently being printed on mass-mailings, the Director of the Senate Service Department shall determine whether or not printing plates currently in use or awaiting use shall be discarded and new plates prepared.

(2) The picture and information for a particular work-week shall be overprinted by the Senate Service Department on window envelopes for CMS mail provided to the Service Department by the Senator, committee chairman, or other office head for whom such mail is being sent.

(e) The Senate Service Department shall transmit to the Center at the end of each week a list of the mass-mailings and CMS letters mailed that week indicating for each work order the kind of mailing, the State to which mailed, the approximate number of pieces, and the child whose picture appeared thereon.

HISTORY

Approved by the Committee on Rules and Administration, United States Senate, on November 1, 1983, effective December 1, 1983, except section 4, effective January 3, 1985.

Section 9 and amendments to sections 1, 3, 4, 6, 7, and 8 approved by the Committee on Rules and Administration on May 1, 1984, effective May 1, 1984. amendments to sections 2, 4, 6, and 9 approved by the Committee on Rules and Administration on May 2, 1985, with the amendment to section 2 to become effective July 1, 1985, amendments to sections 4 and 6(d) effective immediately, and amendments to sections 6(a) and 9(d) effective retroactive to January 1, 1985. amendment to section 9(a) approved by the Committee on Rules and Administration on May 8, 1985, effective immediately.

Sections 4(a)(1)(B), 4(b), 4(c), 4(d), 4(e) and 10 approved by the Committee on Rules and Administration on November 21, 1985, effective January 1, 1986.

(8564-85i24-1648 Approved 11.21.85. Printed 12-17-85.)

L. COMMUNICATIONS MEDIA (TITLE 47, UNITED STATES CODE)

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47 U.S.C. § 312. Administrative sanctions—Revocation of station license or construction permit

(a) The Commission may revoke any station license or construction permit—

* * * * * * *

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(f) Willful or repeated violations

For purposes of this section:

(1) The term "willful", when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States.

(2) The term "repeated", when used with reference to the commission or omission of any act, means the commission or)omission of such act more than once or, if such commission or omission is continuous, for more than one day.

As amended Feb. 7, 1972, Pub.L. 92-225, Title I, § 103(a)(2)(A), 86 Stat. 4; Sept. 18, 1982, Pub.L. 97-259, Title I, § 117, 96 Stat. 1095.

47 U.S.C. § 315. Candidates for Public Office

(a) Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues discussion opportunities

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided,* That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Broadcast media rates

The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

(1) during the forty-five days preeeding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(2) at any other time, the charges made for comparable use of such station by other users thereof.

(c) Definitions

For purposes of this section—

(1) the term "broadcasting station" includes a community antenna television system; and

(2) the terms "licensee" and "station licensee", when used with respect to a community antenna television system mean the operator of such system.

(d) Rules and regulations

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

June 19, 1934, c.652, Title III, § 315, 48 Stat. 1088; July 16, 1952, c.879 § 11, 66 Stat. 717; Pub.L. 86-274, § 1, Sept. 14, 1959, 73 Stat. 557; Pub.L. 92-225, Title I, § 103(a)(1), (2)(B), 104(c), Feb. 7, 1972, 86 Stat. 4, 7; Pub.L. 93-443, Title IV, § 402, Oct. 15, 1974, 88 Stat. 1291.

PART II

STANDING RULES OF THE SENATE RELATING TO THE ELECTIONS OF SENATORS

STANDING RULES OF THE SENATE RELATING TO THE ELECTION OF SENATORS

A. RULE II

PRESENTATION OF CREDENTIALS AND QUESTIONS OF PRIVILEGE

1. The presentation of the credentials of Senators elect or of Senators designate and other questions of privilege shall always be in order, except during the reading and correction of the Journal, while a question of order or a motion to adjourn is pending, or while the Senate is voting or ascertaining the presence of a quorum; and all questions and motions arising or made upon the presentation of such credentials shall be proceeded with until disposed of.

2. The Secretary shall keep a record of the certificates of election and certificates of appointment of Senators by entering in a well-bound book kept for that purpose the date of the election or appointment, the name of the person elected or appointed, the date of the certificate, the name of the governor and the secretary of state signing and countersigning the name, and the State from which such Senator is elected or appointed.

3. The Secretary of the Senate shall send copies of the following recommended forms to the governor and secretary of state of each State wherein an election is about to take place or an appointment is to be made so that they may use such forms if they see fit.

THE RECOMMENDED FORMS FOR CERTIFICATES OF ELECTION AND CERTIFICATE OF APPOINTMENT ARE AS FOLLOWS:

"CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

"To the President of the Senate of the United States:

"This is to certify that on the — day of —, 19—, A——— B——— was duly chosen by the qualified electors of the State of ——— a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 19—.

"Witness: His excellency our governor ———, and our seal hereto affixed at ——— this — day of ———, in the year of our Lord 19—.

"By the governor:

"C——— D———,
"Governor.

"E——— F———,
"Secretary of State."

"CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

"*To the President of the Senate of the United States:*

"This is to certify that on the — day of ——, 19—, A——— B——— was duly chosen by the qualified electors of the State of ——— a Senator for the unexpired term ending at noon on the 3d day of January, 19—, to fill the vacancy in the representation from said State in the Senate of the United States caused by the ——— of C——— D———.

"Witness: His excellency our governor ———, and our seal hereto affixed at ——— this — day of ———, in the year of our Lord 19—.

"By the governor:

"E——— F———,
"*Governor.*

"G——— H———,
"*Secretary of State.*"

"CERTIFICATE OF APPOINTMENT

"*To the President of the Senate of the United States:*

"This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of ———, I, A——— B———, the governor of said State, do hereby appoint C——— D——— a Senator from said State to represent said State in the Senate of the United States until the vacancy therein caused by the ——— of E——— F———, is filled by election as provided by law.

"Witness: His excellency our governor ———, and our seal hereto affixed at ——— this — day of ———, in the year of our Lord 19—.

"By the governor:

"G——— H———,
"*Governor.*

"I——— J———,
"*Secretary of State.*"

B. RULE III

OATHS

The oaths or affirmations required by the Constitution and prescribed by law shall be taken and subscribed by each Senator, in open Senate, before entering upon his duties.

OATH REQUIRED BY THE CONSTITUTION AND BY LAW TO BE TAKEN BY SENATORS

I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter; so help me God. (5 U.S.C. 3331.)

C. RULE XXXIV

PUBLIC FINANCIAL DISCLOSURE

1. For purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate. [See 2 U.S.C. § § 701–709, *supra.*]

2. (a) The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 (other than a report filed by a Member of Congress) to the head of the employing office of the individual filing the report.

(b) For purposes of this rule, the head of the employing office shall be—

(1) in the case of an employee of a Member, the Member by whom that person is employed;

(2) in the case of an employee of a Committee, the chairman and ranking minority member of such Committee;

(3) in the case of an employee on the leadership staff, the Member of the leadership on whose staff such person serves; and

(4) in the case of any other employee of the legislative branch, the head of the office in which such individual serves.

D. RULE XXXV

GIFTS

1. (a)(1) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization, or corporation having interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(2) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $300 during a calendar year from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(3) In determining the aggregate value of any gift or gifts accepted by an individual during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in subparagraph (c)) given by such individual to such person, organization, or corporation during that calendar year.

(b) For purposes of subparagraph (a), only the following shall be deemed to have a direct interest in legislation before the Congress:

(1) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or anyh)successor statute, a person who is an officer or director of such a registered lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

(2) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

(c) The prohibitions of subparagraph (a) do not apply to gifts—

(1) from relatives;

(2) with a value of less than $75;

(3) of personal hospitality of an individual; or

(4) from an individual who is a foreign national if that individual is not acting, directly or indirectly, on behalf of a foreign corporation, partnership, or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

2. For purposes of this rule—

(a) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals or beverages, consumed or enjoyed, provided the meals or beverages are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service by such spouse or dependent;

(b) the term "relative" has the same meaning given to such term in section 107(2) of Title I of the Ethics in Government Act of 1978 (Public Law 95–521) [2 U.S.C. § 707(2)]; and

(c) the term "necessary expenses" means reasonable expenses for food, lodging, or transportation which are incurred by a Member, officer, or employee of the Senate in connection with services provided to (or participation in an event sponsored by) the organization which provides reimbursement for such expenses or which provides the food, lodging, or transportation directly, however necessary expenses do not include—

(1) the provision of food, lodging, or transportation, or the payment for such expenses, for a continuous period in excess of 3 days (and 2 nights) exclusive of travel time within the United States or 7 days (and 6 nights) exclusive of travel time outside of the United States unless such travel is approved by the Committee on Ethics as necessary for participation in a conference, seminar, meeting or similar matter, and

(2) the provision of food, lodging, or transportation, or the payment for such expenses, for anyone accompanying a Member, officer, or employee of the Senate, other than the spouse of a Member, officer, or employee of the Senate or one Senate employee acting as an aide to a Member.

3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift, and its source, return the gift or if it is not possible to return the gift, reimburse the donor for the value of the gift.

4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

(b) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XXXVII) to participate in any such program. Prior to the beginning of any such program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

(c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

E. RULE XXXVII

CONFLICT OF INTEREST

1. A Member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of

which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.

2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.

3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

5. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall (a) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (b) permit that individual's name to be used by such firm, partnership, association or corporation; or (c) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.

6. No Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

> (a) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;
>
> (b) an officer or member of the board of an institution or organization which is principally available to Members, officers,h)or employees of the Senate, or their families, if such service is performed without compensation; or
>
> (c) a member of the board of a corporation, institution, or other business entity, if (1) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (2) the amount of time required to perform such service is minimal, and (3) the Member, officer, or employee is not a member of, or a member

of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

7. An employee on the staff of a committee who is compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

8. If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

9. If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.

10. (a) Except as provided by subparagraph (b), any employee of the Senate who is required to file a report pursuant to rule XXXIV shall refrain from participating personally and substantially as an employee of the Senate in any contact with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.

(b) Subparagraph (a) shall not apply if an employee first advises his supervisor authority of his significant financial interest and obtains from his employing authority a writen waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Select Committee.

11. For purposes of this rule—

(a) "employee of the Senate" includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLI;

(b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee onh)the staff of such committee; and

(c) the term "lobbying" means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

(1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket, or public file of a hearing; or

(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

12. For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

F. RULE XXXVIII

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

1. No Member may maintain or have maintained for his use an unofficial office account. The term "unofficial office account" means an account or repository into which funds are received for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from—

(a) personal funds of the Member.

(b) official funds specifically appropriated for that purpose;

(c) funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)); and

(d) funds received as reasonable reimbursement for expenses incurred by a Member in connection with personal services provided by the Member to the organization making the reimbursement.

2. No contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule "personal use" does not include reimbursement of expenses incurred by a Member in connection with his official duties.

G. RULE XXXIX

FOREIGN TRAVEL

1. Unless authorized by the Senate (or by the President of the United States after an adjournment sine die), no funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) shall be received for the purpose of travel outside the United States by any Member of the Senate whose term will expire at the end of a Congress after—

(a) the date of the general election in which his successor is elected; or

(b) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the second regular session of that Congress.

2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or employee receive reimbursement for the same expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.

H. RULE XL

FRANKING PRIVILEGE AND RADIO AND TELEVISION STUDIOS

1. A Senator or an individual who is a candidate for nomination for election, or election, to the Senate may not use the frank for any mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code) if such mass mailing is mailed at or delivered to any postal facility less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office or the individual is a candidate for Senator.

2. A Senator shall use only official funds of the Senate, including his official Senate allowances, to purchase paper, to print, or to prepare any mass mailing material which is to be sent out under the frank.

3. (a) When a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(5)(D) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

(b) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered, and a description of the group or groups of persons to whom the mass mailing was mailed.

4. Nothing in this rule shall apply to any mailing under the frank which is (a) in direct response to inquiries or requests from persons to whom the matter is mailed; (b) addressed to colleagues in Congress or to government officials (whether Federal, State, or local); or (c) consists entirely of news releases to the communications media.

5. The Senate computer facilities shall not be used (a) to store, maintain, or otherwise process any lists or categories of lists of names and addresses identifying the individuals included in such lists as campaign workers or contributors, as members of a political party, or by any other partisan political designation, (b) to produce computer printouts except as authorized by user guides approved by the Committee on Rules and Administration, or (c) to produce mailing labels for mass mailings, or computer tapes and discs, for use other than in service facilities maintained and operated by the Senate or under contract to the Senate. The Committee on Rules and Administration shall prescribe such regulations not inconsistent with the purposes of this paragraph as it determines necessary to carry out such purposes.

6. (a) The radio and television studios provided by the Senate or by the House of Representatives may not be used by a Senator or an individual who is a candidate for nomination for election, or election, to the Senate less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office or that individual is a candidate for Senator.

(b) This paragraph shall not apply if the facilities are to be used at the request of, and at the expense of, a licensed broadcast organization or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

I. RULE XLI

POLITICAL FUND ACTIVITY; DEFINITIONS

1. No officer or employee of the Senate may receive, solicit, be a custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to three assistants to a Senator, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who are compensated at an annual rate in excess of $10,000 if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XXXIV for each year during which he is designated under this rule. The Majority Leader and the Minority Leader may each designate an employee of their respective leadership office staff as one of the 3 designees referred to in the second sentence. The Secretary of the Senate shall make the designation available for public inspection.

2. For purposes of the Senate Code of Official Conduct—

(a) an employee of the Senate includes any employee whose salary is disbursed by the Secretary of the Senate; and

(b) the compensation of an officer or employee of the Senate who is a reemployed annuitant shall include amounts received by such officer or employee as an annuity, and such amounts shall be treated as disbursed by the Secretary of the Senate.

3. Before approving the utilization by any committee of the Senate of the services of an officer or employee of the Government in accordance with paragraph 2(d) of rule XXVII or with an authorization provided by Senate resolution, the Committee on Rules and Administration shall require such officer or employee to agree in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate. Any such officer or employee shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation he is receiving as an officer or employee of the Government.

4. No Member, officer, or employee of the Senate shall utilize the full-time services of an individual for more than ninety days in a calendar year in the conduct of official duties of any committee or office of the Senate (including a Member's office) unless such individual—

(a) is an officer or employee of the Senate,

(b) is an officer or employee of the Government (other than the Senate), or

(c) agrees in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate.

Any individual to whom subparagraph (c) applies shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation which such individual is receiving from any source for performing such services.

5. In exceptional circumstances for good cause shown, the Select Committee on Ethics may waive the applicability of any provision of the Senate Code of Official Conduct to an employee hired on a per diem basis.

6. (a) The supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of four weeks and who receives compensation therefor from any source other than the United States Government shall report to the Select Committee on Ethics with respect to the utilization of the services of such individual.

(b) A report under subparagraph (a) shall be made with respect to an individual—

(1) when such individual begins performing services described in such subparagraph;

(2) at the close of each calendar quarter while such individual is performing such services; and

(3) when such individual ceases to perform such services. Each such report shall include the identity of the source of the compensation received by such individual and the amount or rate of compensation paid by such source.

(c) No report shall be required under subparagraph (a) with respect to an individual who normally performs services for a Member, committee, or office for less than eight hours a week.

(d) For purposes of this paragraph, the supervisor of an individual shall be determined under paragraph 11 of Rule XXXVII.

J. SENATE RESOLUTION 28 [1] [TAPE DUPLICATION OF SENATE PROCEEDINGS]

TO IMPROVE SENATE PROCEDURES

* * * * * * *

SEC. 6.[2] (a) The use of any tape duplication of radio or television coverage of the proceedings of the Senate for political campaign purposes is strictly prohibited.

(b)(1) Except as provided in paragraph (2), any tape duplication of radio or television coverage of the proceedings of the Senate furnished to any person or organization shall be made on the condition, agreed to in writing, that the tape duplication shall not be used for political campaign purposes.

(2) Any public or commercial news organization furnished a tape duplication described in paragraph (1) shall be subject to the provisions of paragraph (1) but shall not be required to enter into a written agreement.

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[1] Considered, amended, and agreed to February 27 (legislative day, February 24), 1986.

[2] Amended pursuant to S. Res. 431, 100-2, June 7, 1988.

PART III

ANALYSIS OF STATE ELECTION LAWS RELATING TO CANDIDATES FOR THE UNITED STATES SENATE

ALABAMA

Unless otherwise designated, references are to the Code of Alabama 1975 Annotated, and to the 1989 Cumulative Supplement.

Primary Elections, when held (by parties polling over 20 percent of State vote) (optional) (§§ 17-16-1, 17-16-2, 17-16-5).

If held, primary election shall be held on the first Tuesday in June. (June 5, 1990) If no candidate has majority, second primary shall be held on the last Tuesday in June (§ 17-16-6). (June 26, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—File with chairman of State executive committee not later than 5 p.m. on 60th day before primary (§ 17-16-11). (April 6, 1990).

Convention, caucus, or mass meeting, certificate of nominations.—File with Secretary of State on or before 5:00 p.m. 60 days before the date of the first primary election. (April 6, 1990). (§ 17-7-1(a))

Independent candidate

Candidate petition.—Petition bearing signatures of one percent of total registered voters in the State must be filed with Secretary of State on or before 5:00 p.m. 60 days before the first primary election. (April 6, 1990) (§ 17-7-1(a)(3), Supp.).

Filing Fees and Assessments.

May be assessed by parties on candidates able to pay.

Amount.—Not to exceed 2 percent of one year's salary of the office sought.

Date of payment.—parently as set by party.

To whom paid.—parently as set by party (§ 17-16-15).

Crossfiling by Candidates.

Prohibited. Candidate must pledge to support party (§§ 17-16-12, 17-16-13).

Subversive Parties Barred from Ballot.

No provisions were found.

Offenses.

Unlawful solicitation of votes, corruptly influencing voters, bribery (§§ 17-23-3, 17-23-4, 17-23-5).

Intimidation of or hindering voters (§ 17-23-8).

Loitering about polling place; standing in line of voters after having voted (§ 17-7-19).

Gift or promise of a bribe to a person to vote or not to vote (§ 17-23-3), or anything of value to influence his vote (§§ 17-23-4, 17-23-5).

Intoxicating liquors, drinking by election officers during election (§ 17-6-16), or gift of, to voter to influence election (§§ 17-23-4, 17-23-5).

Election coercion or intimidation by employer, whether person (§ 17-23-10) or corporation (§ 17-23-11).

Failure of election officer to perform duties (§ 17-6-14).

Altering or changing vote of elector (§ 17-23-7).

Unlawful registration generally (§ 17-4-139).

Suppressing nomination (§ 17-7-4).

Voting without registration and taking oath (§ 17-7-12).

Disclosing votes (§ 17-8-12).

Deceiving elector in preparation of ballot (§ 17-8-31).

Inspector refusing to provide assistance to those entitled to receive it, etc. (§ 17-8-32).

Disclosing or removing ballot; interfering with or influencing elector; elector remaining in voting booth longer than allowed by law (§ 17-8-41).

Tampering with voting machines, misuse of machines, unauthorized possession of keys, etc. (§ 17-9-40).

Changing absentee ballots, unauthorized assistance to voter, unlawful use of absentee ballot, etc. (§ 17-10-17, Supp.); willfully refusing to perform duties as to absentee voters (§ 17-10-18); probate judges volunteering suggestions as to ballots for absentee voters (§ 17-10-20).

False oath by challenged voter (§ 17-12-6).

Excluding or receiving votes unlawfully (§§ 17-12-7, 17-12-8).

Failure to make election returns (§ 17-14-26).

Paid advertisements to be identified as such (§ 17-22A-12, Supp.).

Paying or accepting payment for vote prohibited (Supp., 17-22A-17).

Making or accepting contributions by one person in name of another prohibited (§ 17-22A-18, Supp.).

Fraudulent misrepresentation as acting for candidate prohibited (§ 17-22A-19, Supp.).

Various primary election violations; assessement of unauthorized fees against candidates (§ 17-16-16); unauthorized voter assistance (§ 17-16-28); divulging vote by those assisting qualified voter (§ 17-16-29); intoxication at polling place (§ 17-16-47); false or fraudulent returns (§ 17-16-48); comparing poll list with ballot (§ 17-16-49); opening poll list (§ 17-16-50); voting more than once (§ 17-16-51); changing or altering returns of primary (§ 17-16-52); failure to place candidate's name on ballot (§ 17-16-53); failure of primary election officer to serve (§ 17-16-54); inspector marking ballot, electioneering with voter or divulging how elector voted (§ 17-16-55).

Write-in Provisions.

Permitted in general election (§ 17-8-20); on voting machines in general elections (§ 17-9-7).

Vacancy in Office.

The Governor may make temporary appointment of a Senator in the Senate of the Congress of the United States from Alabama, whenever a vacancy exists in that office, the appointee to hold office until his successor is elected and qualified (§ 36-9-7).

Whenever a vacancy occurs in the office of Senator of and from the State of Alabama in the Senate of the United States more than 4 months before a general election, the Governor of Alabama shall forthwith order an election to be held by the qualified electors of the State to elect a Senator of and from the State of Alabama to the United States Senate for the unexpired term. If the vacancy occurs within 4 months of but before 60 days before a general election, the vacancy shall be filled at that election. If the vacancy occurs within 60 days before a general election, the Governor shall order a special election to be held on the first Tuesday after the lapse of 60 days from and after the day on which the vacancy is known to the Governor, and the Senator elected at such special election shall hold office for the unexpired term (§ 36-9-8).

The Governor must give notice of a special election to elect a Senator for an unexpired term in the same manner and for the same time as is prescribed for special elections to fill a vacancy in the office of Members of the House of Representatives (§ 36-9-9), i.e., by proclamation (§ 17-18-4). For special election procedures, see §§ 17-18-1—17-18-7.

ALASKA

Unless otherwise indicated, references are to Alaska Statutes Annotated, September 1982 main volume and September 1989 Cumulative Supplement.

Primary Elections, when held.

Fourth Tuesday in August in every even-numbered year (§ 15.25.020). (August 28, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—Candidate should file on or before June 1, prior to the primary. File with director of elections or an election supervisor (§§ 15.25.030, 15.25.040 (a), (c)). The declaration is filed by either—

(1) the actual physical delivery of the declaration by mail or in person at or before 5:00 p.m., prevailing time, June 1 of the year in which a general election is held for the office, or

(2) the actual physical delivery by telegram of a copy in substance for specified parts of the statement at or before 5:00 p.m., prevailing time, June 1 of the year in which a general election is held for the office and also the actual physical delivery of the entire declaration by registered mail which is received not more than 15 days after that time (§ 15.25.040(a)).

Independent candidates

"No-party candidates"—Petition signed by not less than one percent of the number of votes cast in the preceding general election, should be filed with director of elections on or before 5:00 p.m. on June 1 in election year (§§ 15.25.140-15.25.200).

Filing Fees and Assessments—*Primary Candidates* (§§ 15.25.050).

Amount.—$100.

Date of payment.—At a time of filing declaration of candidacy.

To whom paid.—Director of Elections.

Crossfiling by candidates.

Declaration of candidacy must state that the candidate is not a candidate for any other office to be voted on at the primary or general election and that he has not filed another declaration of candidacy or nominating petition for the office for which this declaration is filed (§ 15.25.030(14)).

Subversive Parties Barred from Ballot.

No specific provisions, but persons advocating forceful overthrow of government, or members of parties advocating such, are not qualified for public office (Const. of Alaska, Art. XII, § 4).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 15.56.030).

Intimidation of or hindering voter (§ 15.56.030).

Gift or promise of money or anything of value to person to vote or refrain from voting for any candidate (§ 15.56.030).

Printed matter without name or address of author and printer (§ 15.56.010).

Advertising, printed matter, or radio broadcast containing false charge or comment as to candidate (§ 15.56.010).

Refusal of employer to allow time off for voting without loss of pay, if voter has insufficient time outside working hours (§ 15.56.100).

Intoxicating liquor, sale on election day (§ 4.16.070(a)).

Electioneering near polls on election day (§ 15.56.020).

Improper possession of ballot (§ 15.56.035(a)(1)).

Counterfeiting of ballot (§ 15.56.035(a)(2)).

Voting in false name (§ 15.56.040(a)(1)).

Undue influence of election official (§ 15.56.060(a)(1)).

Improper change of election returns (§ 15.56.070(a)(2)).

Improper delay in sending of election materials (§ 15.56.060(a)(3)).

Voting more than once (§ 15.56.040(a)(2)).

Improper subscription to petition (§ 15.56.-0).

Improper distribution and printing of ballots (§ 15.56.060(a)(4)).

False swearing (§ 15.56.040(a)(3)).

Improper influence of election by election officials (§§ 15.56.070, 15.56.080).

False count or concealment of returns by election officials (§ 15.56.070(a)(2), (3)).

Registration to vote by person who knows that he is unqualified (§ 15.56.050(a)(1)).

False statements by registration applicant (§ 15.56.050(a)(2)).

Political discussion by election board (§ 15.15.160).

Taking ballot from polling place (§ 15.15.270).

Exhibiting marked ballot (§ 15.15.280).

Identifying ballot (§ 15.15.290).

Counting ballot known to have been unlawfully exhibited by voter (§ 15.15.300).

Receiving fee for witnessing absentee ballot (§ 15.20.160).

Voting after disqualification (§ 15.56.050(a)(3)).

Write-in Provisions.

Prohibited in primary (§§ 15.25.060, 15.25.070); permitted in general election (§ 15.15.030(5)). Stickers bearing a candidate's name may be affixed to the ballot in lieu of writing in a candidate's name where write-ins permitted (§ 15.15.360(10)).

Vacancy in Office.

When a vacancy occurs in the office of a United States Senator, the Governor, within 30 days, shall appoint a qualified person to fill the vacancy. However, if the remainder of the termh) of the predecessor in the office will expire or if the vacancy will be filled by a special election before the Senate will next meet, convene, or reconvene, the Governor shall not fill the vacancy (§ 15.40.010).

If the vacancy is for an unexpired term of two years plus five full calendar months or less, the appointment shall be for the remainder of the unexpired term (§ 15.40.030). If the vacancy is for an unexpired term of more than two years plus five full calendar months, the Governor shall call a special election by proclamation and the appointment shall expire on the date the United States Senate first meets, convenes, or reconvenes, following the certification of the results of the special election by the director of elections (§ 15.40.040).

The special election to fill the vacancy shall be held on the date of the first general election which is held more than 3 full calendar months after the vacancy occurs (§ 15.40.050).

The Governor shall issue the proclamation calling the special election at least 80 days before the election (§ 15.40.060).

At the special election a United States Senator shall be elected to fill the reminder of the unexpired term (§ 15.40.070).

If the vancancy occurs one calendar month or more before the filing date for the primary election, candidates for the special election shall be nominated in the same manner as candidates for general elections (§ 15.40.080). If the vacancy occurs less than one calendar month before the filing date for the primary and more than 3 calendar months before the next general election, candidates shall be nominated by petition delivered to the director of elections before September 2 immediately preceding the special election (§ 15.40.090).

Nominees of political parties to be designated by special petition may be selected by the State convention or by another manner as prescribed by the party by-laws (§ 15.40.120). Petitions for nomination of independent candidates shall be signed by at least three percent of the numbers of votes (§ 15.40.100).

ARIZONA

Unless otherwise designated, references are to the Arizona Revised Statutes Annotated 1984 and to the 1988-1989 Cumulative Pocket part.

The State of Arizona will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Eighth Tuesday prior to general election (§ 16-201). (September 11, 1990).

Nominating Papers, Petitions, Etc.

Representation on ballot.—A political organization which at the last preceding general election cast for Governor or presidential electors or for county attorney or for mayor, whichever applies, not less than five percent of the total votes cast for Governor or presidential elector, in the State or in the county, city or town; or, alternatively, a political organization which has registered voters equal to one percent of the total registered electors in a jurisdiction, is entitled to representation on the official ballot (§ 16–804).

Party candidate for primary

Nominating petition and nomination papers.—File with Secretary of State not more than 105 days before or later than 5:00 p.m. on the 75th day before the primary election (§ 16–311). Petition must be signed by qualified electors qualified to vote for the candidate equal to at least one-half of one percent of the voter registration of the Party of the Candidate in at least three counties in the State, but not less than one-half of one percent nor more than ten percent of the total voter registration of his party in the State (§ 16–322). Last day for filing—June 28, 1990.

Independent candidates

Certification of nomination for candidates nominated otherwise than by primary.—Signatures required, equal in number to one percent of qualified electors in the State who did not vote in the party primaries or sign a nominating petition for party primary candidate. *File* with Secretary of State within ten days after primary (§ 16–341, Supp.). (September 21, 1990).

New party.—To be recognized in the primary and general election, a new political party must file a petition signed by qualified electors numbering no less than two percent of the votes cast for Governor or presidential elector in the last preceding election (§ 16–801). File with Secretary of State not less than 75 nor more than 105 days prior to primary election (§§ 16–801, 16–803). (June 28, 1990).

Write-in candidate

Nomination papers.—File with Secretary of State no later than 5:00 p.m. on the fourteenth day prior to the election. (§ 16–312).

Filing Fees and Assessments.—Prohibited (Const., Art. 7, § 14).

Crossfiling by Candidates.

Prohibited. Candidates must be a member of party whose nomination he seeks (§ 16–311). If a person is nominated on more than one ticket he must choose one (§ 16–467).

A candidate defeated in the primary is prohibited from seeking nomination as an independent candidate (§ 16–341).

Subversive Parties Barred from Ballot.

Communist Party.—(§§ 16–805, 16–806; but see *Blawis* v. *Bolin,* 358 F. Supp. 349 (D. Ariz. 1973), where provisions of the (Federal) Communist Control Act, 50 U.S.C. §§ 841–842 and former §§ 16–205, 16–206, Ariz. Rev. Stats. (comparable to present §§ 16–805, 16–806), which specifically disenfranchised the Communist Party U.S.A. and its affiliates were held unconstitutional as bills of attainder that denied party members due process and equal protection of law.

Advocating overthrow of Government by force.—§ 16-806.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 16-1006, 16-1013, 16-1014, 16-1008).

Intimidation of or hindering voter (§§ 16-1006, 16-1013, 16-1008).

Gift or promise of money or thing of value to person to vote or not to vote (§§ 16-1006, 16-1013, 16-1014, 16-1008).

Betting on outcome of election (§ 16-1015).

Election coercion by employer (§ 16-1012).

Tampering with voting machine, ballot box (§§ 16-1016, 16-1017).

Electioneering near polls (§§ 16-1017, 16-1018).

Failure to give time off for voting (§ 16-402).

Counterfeiting or distributing unlawful ballots (§ 16-1002).

False endorsement, knowing destruction, or delay in delivery of ballot (§ 16-1003).

Interference with or corruption of election officer (§ 16-1004).

Absentee ballot abuse (§ 16-1005).

Election officer ascertaining or disclosing elector's vote (§ 16-1006).

Failure or refusal to perform duty by election officer (§§ 16-1009, 16-1010).

Counterfeiting election returns (§ 16-1011).

Illegal voting; pollution of ballot box; removal or destruction of ballot box, poll lists or ballots (§ 16-1016).

Various unlawful acts by voters with respect to voting (§§ 16-1017, 16-1018).

Tampering with political signs (§ 16-1019).

Write-in Provisions.

Allowed in primary (§ 16-462); general election (§ 16-502), on voting machines (§ 16-424); on electronic voting systems (§§16-446, 16-448).

In order to be nominated by a write-in vote at a primary election, a write-in candidate must receive a number of votes equivalent to the number of signatures required on the nomination papers of a party candidate for the primary (§ 16-645).

Write-in candidate must file nomination papers with the Secretary of State no later than the Wednesday before the election, or votes will not be counted (§ 16-312).

Vacancy in Office.

When a vacancy occurs in the office of United States Senator by reason of death or resignation, or from any other cause, the vacancy shall be filled at the next general election. At such election the person elected shall fill the unexpired term of the vacated office. If the next general election is not to be held within six months from the date of the occurrence of the vacancy, the governor shall call a special primary and general election to fill the vacancy. The special primary election shall be held no less than 75 nor more than 105 days after the occurrence of the vacancy, and the special general election shall be held not less than 35 nor more than 45 days thereafter (§ 16-222).

ARKANSAS

Unless otherwise designated, references are to Arkansas Code of 1987 Annotated and to the 1989 Cumulative Supplement.

Primary Elections, when held.

Preferential primary.—On the Tuesday two weeks prior to the general primary (§ 7-7-203). If at such preferential primary a candidate receives a majority of the votes cast for that office, such person shall be declared the party nominee, and it shall not be necessary for his name to appear on the general primary ballot (§ 7-7-203). In 1990, the primary date has been set for May 29, 1990.

General primary (runoff).—Second Tuesday in June preceding general election (§ 7-7-203). In 1990, the runoff primary has been set for June 12, 1990. If no candidate receives a majority of votes cast for that office at the preferential primary election, the names of the two candidates who received the highest number of votes shall be printed on the ballot at the general primary election (§ 7-7-202).

Nominating Papers, Petitions, Etc.

Party pledge.—Not earlier than noon of the 3rd Tuesday in March or later than noon on the fourteenth day thereafter; candidate to file with secretary of State party committee (§ 7-7-203). In 1990, the filing deadline has been set for April 3, 1990.

Political practice pledge.—File pledge with Secretary of State no earlier than noon of the 3rd Tuesday in March or later than noon on the fourteenth day thereafter (§ 7-7-203(c)). In 1990 the filing deadline has been set for April 3, 1990.

Certification of nomination

Party candidate for primary.—No later than forty (40) days before the preferential primary election, the chairman and secretary of the state committee of the political party shall certify to the various county committees the names of all candidates who have qualified with the state committee for election by filing the party pledge and paying the ballot fee within the time required by law (§ 7-7-203(d)).

New party.—Party which did not obtain three percent of vote for Governor or presidential electors in last election may obtain place on ballot by filing petition signed by qualified electors equal to three percent of such vote with Secretary of State not later than the first Tuesday in the fourth calendar month before the preferential primary (§ 7-7-203(g)).

Independent candidate.—File with Secretary of State by time required for filing political practice pledges and party pledges request that name be placed on general election ballot, together with petitions, signed by not less than three percent of the qualified electors of the State or 10,000, whichever is less (§ 7-7-103).

Write-in candidate.—No votes for write-in candidates in general elections shall be counted or tabulated unless the candidate or his agent shall notify in writing the county board of election commissioners of his intention to be a write-in candidate not later than sixty (60) days before the opening of the polls (§ 7-5-205).

Filing Fees and Assessments.

Candidate fee.—None.

Ballot fees.—By party candidates, no earlier than noon of the 3rd Tuesday in March or later than noon on the fourteenth day thereafter before primary, in amount required by political party, to secretary of the State committee of party (§ 7-7-301(a)(1)). (Filing Deadline, April 3, 1990).

Crossfiling by Candidates.

Prohibited.—Candidates required to file pledge to support party (§ 7-7-301). Person defeated at the primary shall not be permitted to file as an independent candidate for the same office at the general election (§ 7-7-103(f)).

Subversive Parties Barred from Ballot.

Communist Party (§ 7-3-108).

Advocating overthrow of Government by force (§ 7-3-108).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 7-1-104(4)).

Intimidation of or hindering voter (§ 7-1-104(5)).

Promise of money, property, or anything of value to a person to vote or not to vote (§ 7-1-104(4)).

Advertising and other printed matter without signature or mark of sponsor and of those bearing costs (§ 7-1-103(8)).

Electioneering near polls on election day (§ 7-1-103(9)).

Election coercion or intimidation by employer (§ 7-1-104(5)).

Soliciting money or valuable consideration from candidate for placing candidate's name on approved candidate's list (§ 7-1-103(11)).

Distribution of any campaign literature on election day (§ 7-1-103(9)).

Voting more than once, in more than one precinct, altering ballots, etc., in an election (§ 7-1-104(10)).

Divulging results of votes for candidates to news medium or representative thereof by election judge, clerk, poll watcher, or any person in or out of the State earlier than 30 minutes after polls close. Applies to primary, general, or special elections (§ 7-1-103(27)).

Assessing State employees (§ 7-1-103(4)).

Disturbance or riot at polling place (§ 7-1-103(10)).

Tampering with voting machine (§ 7-1-104(15)).

Removal or destruction of voting booths and supplies (§ 7-1-103(17)).

Removal of ballot from polling place (§ 7-1-103(18)).

Registering in precinct where not a resident (§ 7-1-103(16)).

False swearing when applying for ballot (§ 7-1-103(15)).

Unauthorized printing of ballots (§ 7-1-104(6)).

Damaging poll books; breaking seal on ballot boxes on voting machines, hampering compilation of election returns (§ 7-1-104(15)).

Voting other than a legal ballot (§ 7-1-104(11)); voting when not registered (§ 7-1-104(3)).

Write-in Provision.

Permitted in general election if candidate or his agent notifies the County Election Commissioner in writing not later than 60 days prior to election, of his intention to be a write-in candidate (§§ 7-5-205, 7-5-208(3)); on voting machines (§ 7-5-525); where electronic voting systems are used (§ 7-5-610).

Vacancy in Office.

A vacancy in the United States Senate from Arkansas shall be filled by the governor by temporary appointment until the people fill the vacancy at the next ensuing general election for state and county officers to be held more than 60 days and less than 12 months after such vacancy shall occur; provided that if no general election for state and county officers shall occur within 12 months after such vacancy, the governor shall call a special election to be held not less than 60 days and not more than 120 days after the vacancy shall occur (§ 7-8-102).

CALIFORNIA

Unless otherwise indicated, references are to the California Elections Code Annotated (1977 main volumes) and to the 1989 Cumulative Pocket Parts.

The State of California will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First Tuesday after first Monday in June in each even-numbered year (§ 2551). (June 5, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—No candidate's name may be printed on the ballot to be used at a direct primary unless nomination documents are filed not less than 88 nor more than 113 days prior to direct primary (§ 6490, Supp.). Include with declaration sponsor certificates signed by not less than 65 nor more than 100 qualified party voters (§§ 6494, 6495(a), Supp.), (March 8, 1990). If incumbent does not file, deadline is extended to 5:00 p.m. on the 83rd day before the election (§ 6490.1). All nomination documents must be filed in the office of the Secretary of State (§ 6550, Supp.).

Independent candidate (§ 6402).

Declaration of candidacy.—88 days before election, candidate must leave affidavit in same office as nomination papers (§ 6920, Supp.).

Nomination papers.—Signatures are required equal in number to not less than 1 percent of the entire vote cast in the State at the preceding general election (§ 6831) of voters who did not vote at the immediately preceding primary at which a candidate for the United States Senate was nominated (§§ 6838, Supp.). *File* with Secretary of State not more than 129 nor less than 64 days before general election, but leave with county clerk for examination not more than 148 nor less than 88 days before general election (§ 6833, Supp.).

Write-in candidate

No person whose name has been written in for an office at the direct primary may have his or her name placed on the ballot as a candidate for that office for the ensuing general election unless he or she either (a) received enough votes at the direct primary equal to one percent of all votes cast for such office at the last preceding general election, (b) is an independent nominee, or (c) has been designated by a party central committee to fill a vacancy on the general election ballot (§ 6661, Supp.).

Filing Fees and Assessments.

Amount.—Two percent of first year's salary (§ 6552(a), Supp.).

Date of payment.—When declarations are filed (§ 6554, Supp.).

To whom paid.—To Secretary of State (§ 6552, Supp.).

Alternatively, file petition signed by 10,000 registered voters with clerk from whom nomination papers were obtained, at least 15 days prior to the close of the nomination period (§ 6555, Supp.). A combination of such signatures and a pro rata filing fee may also be filed (*ibid.*).

Crossfiling.

Prohibited.—Candidate must have been affiliated with party whose nomination he seeks for at least three months immediately prior to filing of declaration of candidacy, as shown by his affidavit of registration, and must not have registered affiliation with any other party within twelve months immediately prior to filing (§ 6401, Supp.). A candidate of a party who was defeated at the primary is ineligible for nomination as an independent candidate (§ 6402(a)). No person may file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election (§ 6402(b)).

Subversive Parties Barred from Ballot.

Parties advocating overthrow of Government by force disqualified from participating in primary (§ 6431).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 29421; 29623, 29620; §§ 29621, 29622, 29624, Supp.).

Intimidation of or hindering voter (§ 29630, Supp.).

Gift or promise of money or thing of value to person to vote or not to vote (§ 29620).

Bribing members of a political nominating meeting (§ 29420).

Tampering with voting machine (§ 29645, Supp.; § 29649).

Electioneering near polls (§ 29470, Supp.).

Payment of consideration to induce a person not to become or to withdraw as a candidate (§ 29305, Supp.).

Employee shall have 2 hours off to vote without loss of pay if he does not have sufficient time for voting outside working hours (§§ 14350-14352).

Offenses connected with voter registration (*cf.* knowingly registering or helping to register one not qualified to vote) (§§ 29200, 29202; Supp.; §§ 29201, 29203, 29203.7).

False names on nomination petitions (§ 29300).

Making false nomination papers, defacing or destroying nomination papers (§ 29301).

Failure to properly file nomination papers or declaration of candidacy (§§ 29302, 29303).

Suppression of nomination papers of declarations of candidacy (§ 29304).

Printing simulated ballots without a statement so certifying, or with official seal or insignia (§ 29414).

Misleading voter as to proper voting precinct of election literature (§ 29415).

Claiming party endorsement by primary candidate (§ 29430).

Preventing electors from assembling (§ 29440).

Implication that candidate is incumbent or acting in capacity of public officer (§ 29450).

Soliciting funds in the name of a political party without such party's consent (§§ 12301, 29460).

Vandalism at polling places (§ 29480).

Use of state publications to influence voters on candidates or questions not related to the functions of the agency or department issuing such publications (§ 29490).

Use or furnishing of imitation paper ballots or punchcards (§ 29500).

Printing or circulation of nonconforming ballots (§ 29501).

Aiding or abetting fraud in connection with casting of votes (§ 29610, Supp.).

Public officials' aiding illegal casting of votes (§ 29611).

Interference with officers or voters (§ 29612).

Political material in pay envelopes (§ 29631, Supp.).

Challenging right to vote without probable cause (§ 29632).

Fraudulent voting (§ 29640, Supp.).

Procuring or advising vote of unqualified person (§ 29641).

Forging absentee ballots (§ 29642, Supp.).

Tampering with or damaging voting machines (§ 29645, Supp.).

Removing or defacing posted copy of election results within 48 hours; delaying delivery or changing copy of voting results (§ 29650).

Forging or counterfeiting election returns (§ 29646).

Counting board members, failure to obey lawful orders (§§ 29651, 29652).

Deceiving voter unable to read, causing voter to vote for different person than intended through fraud (§ 29653).

Refusal of person required to be sworn or to answer questions (§ 29654).

Unlawfully acting as election officer or acting in unauthorized capacity (§ 29655).

Write-in Provisions.

Permitted in all elections (§§ 17101, 17102, Supp.), on voting machines (§ 15304), on punchcard voting system, (§ 10335, Supp.). The use of pressure-sensitive stickers or other methods than handwriting is invalid (§ 17103).

Vacancy in Office.

If a vacancy occurs in the representation of this State in the Senate of the United States, the Governor may appoint and commission an elector of this State, who possesses the qualifications for the office, to fill the vacancy until his successor is elected and qualifies and is admitted to his seat by the United States Senate. However, whenever a vacancy occurs within a term fixed by law to expire on the third day of January following the next general election, the person so appointed shall hold office for the remainder of the unexpired term unless such vacancy is filled at a special election held prior to such general election, in which case the person elected at such special election shall hold office for the remainder of the unexpired term. An election to fill a vacancy in the term of a United States Senator shall be held at the general election next succeeding the occurrence of the vacancy or at any special election (§ 25001).

The special election shall be proclaimed within fourteen calendar days after the occurrence of the vacancy (§ 2651, Supp.).

When the vacancy occurs in a congressional office after the close of the nomination period in the final year of the term of office, the Governor may decline to issue an election proclamation at his discretion (§ 2652).

COLORADO

Unless otherwise designated, references are to Colorado Revised Statutes Annotated of 1973, 1980 Replacement Vol. and to the 1988 Cumulative Supplement. The 1987 and 1988 Session Laws were examined.

Primary Elections, when held.

Second Tuesday in August in each even-numbered year (§ 1-1-104(23) 1-4-101). (August 14, 1990).

Laws relating to primary and other elections shall prevail as to election of United States Senator (§ 1-4-101).

Nominating Papers, Petitions, Etc.

Party candidate for primary.—Certificate of designation for candidates selected by assembly of political party. All candidates who receive thirty percent or more of the votes of the delegates to such assembly, shall be certified by the presiding officer and secretary of such assembly, for a place on the direct primary ballot. No more than two ballots are to be taken by the assembly upon candidates for each office. Certificate of designation must certify that the candidate has been a member of said political party for period of time required by law. If two or more candidates receive equal number of votes, the order of certification of designation shall be determined by lot by such candidates (§ 1-4-601, Supp.).

A party assembly shall be held no later than 65 days preceding the primary election (§ 1-4-601, Supp.). File certificate of designation in the office of the secretary of state prior to 65 days before the primary election (§ 1-4-604, Supp.). The filing deadline is June 10, 1990.

Acceptance of nomination by candidate designated by party assemblies must be filed in writing with the Secretary of State within ten days after the adjournment of the assembly (§ 1-4-601(3)).

Petition.—A candidate may be placed on the direct primary ballot by a petition signed by electors resident within each Congressional District in a number equal to at least two percent of the votes cast in such district at the previous general election for the party's candidate for U.S. Senator (§ 1-4-603(2)(c)).

Acceptance of nominations by candidates nominated by petition just be endorsed on every petition before filing (§ 1-4-603(4)).

Filing.—Certificates of designation and petitions should be filed with Secretary of State not less than 65 days prior to the primary election (§ 1-4-604).

Independent candidate

Certificate of nomination.—Signatures of 1000 voters of the State are required. File with Secretary of State not later than 3:00 p.m. Tuesday preceding the primary election (§ 1-4-801(b), (h), (Supp.).

Acceptance of nomination by candidate must be attached thereto (§ 1-4-801(g)).

Filing Fees and Assessments.—No statutory provision.

Crossfiling by Candidates.

Prohibited. Candidate must have been affiliated with party whose nomination he seeks for at least twelve months prior to nomination (§ 1-4-601(4)). The name of each person nominated shall be printed on the ballot only in one place (§ 1-4-601(2)).

Offenses.

Forgery or alteration of ballot (§ 1-13-106).

Violation of duty by election official (§ 1-13-107).

Anonymous statements concerning candidates or issues (§ 1-13-108).

False statements relating to candidates or questions submitted to electors (§ 1-13-109).

Wagers with electors (§ 1-13-110).

Interfering with or impeding registration (§ 1-13-201).

Unlawful qualification as taxpaying elector (§ 1-13-202).

Procuring false registration (§ 1-13-203).

Adding names after registration closes (§ 1-13-204).

Fraud at precinct caucus, assembly, or convention (§ 1-13-301).

Fraudulent voting in precinct caucus, assembly, or convention (§§ 1-13-302 and 1-13-303).

Bribery of petition signers (§ 1-13-401).

Tampering with nomination papers (§ 1-13-402).

Interference with election official (§ 1-13-701).

Tampering with registration book, registration list, or pollbook (§ 1-13-703).

Unlawfully refusing ballot or permitting to vote (§ 1-13-704).

Inducing defective ballot (§ 1-13-707).

Tampering with voting equipment (§ 1-13-708).

Voting in wrong precinct (§ 1-13-709).

Interference with voter while voting (§ 1-13-711).

Disclosing or identifying vote (§ 1-13-712).

Intimidation of voters (§ 1-13-713).

Electioneering within one hundred feet of the polling place (§ 1-13-714).

Liquor in or near polls (§ 1-13-715).

Destroying, removing, or delaying delivery of election records (§ 1-13-716).

Certain unlawful acts by an employer (§ 1-13-719).

Unlawfully giving or promising money or employment (§ 1-13-720).

Write-in Provisions.

Permitted in primary (§ 1-6-401); and in general election (§ 1-6-402); on voting machines (§ 1-6-404); on electronic voting ballots (§ 1-6-405).

Vacancy in Office.

(1) Whenever a vacancy happens in the office of United States Senator from this State, the Governor shall make a temporary appointment to fill such vacancy until the same is filled by election.

(2) When a vacancy happens, the Governor shall direct the secretary of state to include in his general election notice for the next general election a notice of the filing of such vacancy. The secretary of state shall give notice accordingly. At such election the vacancy shall be filed for the unexpired term. If for any reason, no United States Senator is elected at the next general election, the person temporarily appointed by the Governor shall hold over until a United States Senator is elected at a succeeding general election (§ 1-12-101).

CONNECTICUT

Unless otherwise designated, references are to Connecticut General Statutes Annotated (1967) and to the 1989 Cumulative Annual Pocket Part.

The State of Connecticut will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Must be held by parties whose candidate at last general election for this office polled at least ten percent of the total cast for all candidates for this office, or whose gubernatorial candidate polled at least twenty percent of total vote for all candidates for Governor (§§ 9-381, 9-372(5)). May be held by minor parties if party rules so provide (§ 9-451).

If no person other than a party-endorsed candidate has received at least twenty percent of the votes of the delegates or if within the time specified, no candidacy for nomination by a political party to the office has been filed by or on behalf of a person other than a party-endorsed candidate, no primary shall be held by the party for the office and the party-endorsed candidate for the office shall be deemed to have been lawfully chosen as the nominee of the party for the office (§ 9-416, Supp.).

Date.—Fifty-sixth day preceding day of election (§ 9-423, Supp.). (September 11, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary, if held

Party-endorsed candidate.—State convention shall choose candidate according to party rules (§ 9-382). Filing deadline is the fourteenth day after the State convention. In 1990, the filing deadline is August 13, 1990.

Certificate of endorsement

Whenever a convention of a political party is held for the endorsement of candidates for nomination to state or district office, each candidate endorsed at such convention shall file with the Secretary of the State a certificate, signed by him, stating, that he was endorsed by such convention, his name and full residence address and the title and district, if applicable, of the office for which he was endorsed. Such certificate shall be attested by either (1) the chairman or presiding officer or (2) the secretary of such convention and shall be received by the Secretary of the State not later than four o'clock p.m. on the fourteenth day after the close of such convention or if such fourteenth day is a Saturday, Sunday or legal holiday, not later than four o'clock p.m. on the next succeeding business day (§ 9-388, Supp.).

Candidates of minor parties

Parties whose candidate for this office at the last general election for such office received at least one percent of total vote for all candidates for such office may nominate candidate in accordance with their party rules which were filed with the Secretary of State at least sixty days in advance of such nomination. Presiding officer of nominating body shall certify candidate to Secretary of State not less than fifty-five days before election (§ 9-451; §§ 9-372(6); 9-374; 9-452, Supp.).

Nominating petition (minor parties may also nominate by nominating petition, accompanied by *statement of party principles.*)—Signatures of qualified voters are required, equal in number to one percent of all votes cast for the same office at last general election for such office. File with the town clerk of the town in which the signers reside not later than 4:00 p.m. of the 63d day prior to the election, or with the Secretary of State not later than 4:00 p.m. of the 70th day before the election (§§ 9-453a—9-453t, Supp.).

Filing Fees and Assessments.

No statutory provisions were found.

Crossfiling by Candidates.

Candidates who are nominated by a major or minor party are prohibited from appearing on the ballot by a nominating petition (§ 9-453t, Supp.). And being a candidate in any other political party or organization is prima facie evidence of party disaffiliation (§ 9-61, Supp.).

Communist Party Barred From Ballot. (Op. Atty. Gen. (June 17, 1964), 25 Conn. L.J. No. 32, p. 17).

Offenses.

Election coercion or intimidation of employees by employer (§ 9-365).

Electioneering near polls on election day (§§ 9-366; 9-236, Supp.).

Interference with electors in voting (§ 9-366).

Tampering with voting machine (§§ 9-367, 9-352).

Unlawful sessions of registration board (§ 9-349).

Failure to warn of election (§ 9-350).

Delay in counting or declaring vote (§ 9-351).

Falsifying election returns (§ 9-353).

Improper printing of ballot label (§ 9-354).

Official neglect or fraud (§ 9-355, Supp.).

Fraudulent registration (§ 9-357).

False Swearing (§ 9-358).

Offenses in connection with absentee ballots (§§ 9-359, 9-359a, Supp.).

Fraudulent voting (§ 9-360, Supp.).

For a listing of primary or enrollment violations, § 9-361; primary, caucus and convention violations, § 9-364a, Supp.).

Circulation of misleading instructions (§ 9-363).

Influencing elector to refrain from voting (§ 9-364).

Write-in Provisions.

Apparently permitted in any election; on voting machines (§ 9-265, Supp.)

Vacancy in Office.

In case of a vacancy in the office of Senator in Congress, the Governor is empowered to fill such vacancy by appointment. If such vacancy occurs sixty or more days prior to a state election, the appointee shall serve until the third day of January following such election, and at such election there shall be elected a Senator in Congress to serve for the remaining portion, if any, of the term vacated. If such vacancy occurs within less than sixty days of a state election and the term vacated does not expire on the third day of January following such election, the appointee shall serve until the third day of January following the next such election but one, and at such next election but one there shall be elected a Senator in Congress to serve for the remaining portion, if any, of the term vacated. If such vacancy occurs within less than sixty days of a state election and the term vacated expire on the third day of January following, the appointee shall serve until such third day of January (§ 9-211).

DELAWARE

Unless otherwise indicated, references are to Title 15 of the Delaware Code Annotated 1981 Replacement Volume and the 1988 Supplement.

Primary Elections, when held.

First Saturday next following the first Monday in September (§ 3101(3)). (September 8, 1990).

Nominating Papers, Petitions, Etc.

Party candidates.—Notify Chairman of State political party committee on or before 12:00 p.m. of the last Friday in July (§§ 3106(a)(1), 3101(1)). (July 27, 1990).

Independent candidates.—Filing deadline for ballot access is September 1, 1990 (§ 3002). Must file a sworn declaration of candidacy with the appropriate county department of elections. Must also file nominating petitions signed by not less than 1 percent of the total number of voters eligible to vote the office being sought (§ 3002(b)).

Filing Fees and Assessments.

Filing fees required on giving notice of request for primary (§ 3103(a)(1)). The filing fee is to be set by the State Executive Committee of the respective political party (§ 3103(a)(1)); but in no event is to exceed one percent of the total salary for the entire term of office for which the candidate is filing (§ 3103(b)).

Crossfiling by Candidates. Unaffiliated candidates must state in their declarations of candidacy that they have not been affiliated wiht any political party 3 months prior to the filing of such declarations (§ 3002(b)).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (Const. Art. 5, §§ 3, 7; Code, §§ 3167, 5123, 5127, 5162).

Intimidation of or hindering voter (§§ 3163, 5123, 5126, 5162, 5303; Const. Art. 5, § 7).

Gift or promise of money, employment or anything of value to a person to vote or not to vote or to influence his vote (§§ 3166, 5127; Const. Art. 5, § 7).

Intoxicating liquor, furnishing on election day or during registration of voters (§§ 2304, 3112, 3169).

Betting on outcome of election (§ 5164; Const. Art. 5, § 7).

Interference with election (§ 5118).

Inducing the making of distinguishing mark on ballot (§ 5124).

Inducing election officers to violate election laws (§ 5125).

Bribery of election officer (§ 5127), interference with or intimidation of election officer (§§ 5139, 5161), or intimidation of registration officers (2305; Const. Art. 5, § 7).

Fraudulent casting of votes (§§ 5128, 5132).

Election coercion or intimidation of employees by employer (§§ 5161-5163).

Military interference with elections (§§ 5302-5313).

Tampering with election records (§ 3168).

Tampering with election supplies or voting machines (§§ 5116, 5121).

Unauthorized entering of voting room (§ 5117), or of registration area (§ 2307).

Neglect of duty, election officers (§ 2301; *see also* §§ 5111-5113, 5127, 5130, 5133).

Wrongful registration, assault, riot, breach of peace (§ 2302).

Fraudulent entries; alteration, destruction, etc., of registration records (§ 2303).

Improper conduct of printer of ballots and ballot envelopes (§ 5114).

Improper use of ballot or envelope (§ 5115).

Feigning a physical disability to obtain assistance in voting (§ 5119).

Secreting person in election room (§ 5120).

Removal or destruction of election supplies or equipment or voting machines (§ 5121).

Disclosure by election officers (§ 5122).

Inducing the making of a distinguishing mark on ballot (§ 5124).

Inducing election officers to violate election laws (§ 5125).

False entries by clerk of election (§ 5129).

False count or certification by election officer (§ 5131).

Fraudulent deposit or alteration of ballots or entering voting machine booth or casting fraudulent vote (§ 5132).

Stealing, destroying or secreting records (§ 5134).

Election perjury (§ 5135).

Tampering with ballots or deceiving voters (§ 5136).

Disobeying election officers (§ 5137).

Breach of peace or violence on election day (§ 5138).

Interference with election officer or challenger (§ 5139).

Failure of inspector to preserve order (§ 5140).

Stealing or destroying ballot box, ballot, poll list (§ 5141).

Requiring unauthorized oath (§ 5142).

Improperly or unidentified campaign literature (§ 8005(b)).

Write-in Provisions.

Permitted in general election (§§ 4502, 4506, 4976); on voting machines (§ 5001(a)(3)). Not permitted in the primaries (§ 3124(b)).

Vacancy in Office.

When a vacancy occurs in the office of United States Senator, it shall be filled for the unexpired term at the next general election. The Governor may make a temporary appointment from among the qualified electors of the State until the vacancy is filled by the next general election (§ 7321).

FLORIDA

Unless otherwise indicated, references are to the Florida Statutes Annotated 1982 and to the 1989 Cumulative Annual Pocket Part.

The State of Florida will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First primary.—first primary shall be held on the Tuesday 9 weeks prior to the general election (§ 100.061) (September 4, 1990).

Second primary.—To be held for nomination of candidates for offices for which a candidate did not receive a majority in the first primary. A second primary shall be held 5 weeks prior to the general election (§ 100.091, Supp). (October 2, 1990).

Nominating Papers, Petitions, Etc.

Qualification papers, which include candidate's oath, (§ 99.021), to be filed any time after noon of 120th day but before noon of 116th day before the first primary; file with Department of State (§ 99.061(1), Supp.). (May 11, 1990).

Independent candidate.—Independent candidate's name may appear on general election ballot provided he is otherwise qualified and submits petitions to the supervisor of elections in each county in which petitions were circulated no later than noon of the 116th day prior to the first primary preceding the general election, containing signatures of three percent of the registered electors of Florida. Supervisors certify to the Department of State within thirty days of the last day for qualifying that the signers of the petitions are registered electors of the county. On notice of sufficient signatures from the Department of State, the candidate, shall qualify with the Department of State and take the required oath. (§ 99.0955, Supp.)

Minor party candidates.—minor political party is any group which on January 1 preceding a primary election does not have registered as members five percent of the total registered electors of the State (§ 97.021(15), Supp.). Any group of citizens organized for the general purposes of electing to office qualified persons and determining public issues under the democratic processes of the United States may become a minority political party of the State by filing with the Department of State a certification showing the name of the organization, the names of its current officers, including the members of its executive committee, and a copy of its constitution or bylaws. It shall be the duty of the party to notify the Department of State of any changes in the filing certificate within five days of such changes (*ibid.*). A minor party may have names of its candidates for offices which are elected on a statewide basis printed on a general election ballot if a petition requesting that the party be assigned a position on the general election ballot is signed by three percent of the registered electors of the State. (§ 99.096.)

Filing Fees and Assessments.

Amount—filing fee.—Three percent of annual salary (§ 99.092(1), Supp.).

Committee assessment.—Two percent of annual salary (*ibid.*).

Date of payment.—Filing fee and party assessment shall be paid when qualification papers are filed (99.061(1), Supp.).

To whom paid.—Department of State (*ibid.*).

Note: Qualification fee paid by an independent candidate or a minor party candidate shall be refunded to such candidate within ten days from the date the determination is made that such candidate or party failed to obtain the required number of signatures (§ 99.061(1)).

Alternative petition.—Available to any person seeking to qualify for nomination who is unable to pay the filing fee and party assessment without imposing an undue burden on his personal resources or on resources otherwise available to him. File notice of intent to qualify by petition with Secretary of State at any time after the first Tuesday after the first Monday in January of the year in which the first primary is held, but no later than the 92d day prior to the date of the first primary election (§ 99.095(1)). A separate petition must be circulated in each County in which signatures are sought (§ 99.095(4)(a)); and each petition must be submitted, prior to noon of the 92d day preceding the first primary election, to the supervisor of elections of the county in which it was circulated. The respective county supervisors and the Secretary of State proceed to determine if a sufficient number of signatures have been obtained (*ibid.*).

Crossfiling by Candidate.

Prohibited. Candidates are required to take an oath and state party membership and assert that he has not been a candidate for nomination for any other party for a period of six months preceding the general election for which he qualified (§ 99.021). Candidate must also state that he has not qualified for any other public office in the State, the term of which office or any part thereof runs concurrently to the office he seeks (*ibid.*).

Subversive Parties Barred from Ballot.

Communist Party.—§§ 876.01, 876.02, 876.30, Florida Statutes Annotated.

Advocating overthrow of Government by force.—§§ 876.01, 876.30, Florida Statutes Annotated.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 104.061(2)).

Intimidation of or hindering voter (§ 104.061(1)); deprivation or interference with voting rights (§ 104.0515, Supp.).

In order to promote his own nomination, for a candidate:

To contribute to the campaign of another candidate (§ 104.071(1)(c)).

To promise appointment, nomination, or election of another person to public or private position (§ 104.071(1)(a)).

To give or promise to give any money or thing of value to publisher of newspaper or periodical to induce him to advocate or oppose through the columns of his paper any candidate for nomination or to conduct a poll relating to a campaign (§ 104.071(1)(b)).

To furnish to another anything of value for purposes prohibited by election laws (§ 104.071(1)(d)).

Election coercion of employees by employer (§ 104.081).

False, willful, or malicious charges of corrupt illegal practice against opposing candidate (§ 104.271).

Improperly identified campaign literature (§ 106.143).

Failure to announce name of candidate's political party on radio or television advertising (§ 106.143(3)).

Intermingling ballots (§ 104.13); casting more than one vote (§ 104.18); changing electors' ballots (§ 104.21); stealing or altering election records (§ 104.22).

Use of party name in political advertising in support of candidate of any other political party without consent of such party (§ 103.081).

Distribution of political literature within 100 yards of polling place (§ 104.36).

Tampering with voting machine (§ 104.30).

False swearing (§ 104.011).

Gift or anything of value to person for registering to vote (§ 104.012).

Unauthorized use, possession, or destruction of voter registration identification card (§ 104.013).

False declaration to secure assistance in preparing ballot (§ 104.031).

Knowingly to sign a petition more than one time (§ 104.185).

Fraud in connection with casting vote (§ 104.041).

Neglect of duty by election officials (§ 104.11).

Failure to assist officers at polls (§ 104.101).

Voting when not qualified (§ 104.15).

Fraudulent voting (§ 104.16).

Voting in person after casting absentee ballot (§ 104.17).

Unlawful use of stickers, rubber stamps, etc. (§ 104.19).

Allowing ballot to be seen, and other ballot offenses (§ 104.20).

Disclosing how elector votes (§ 104.23).

Assuming false name, etc., for use in voting (§ 104.24).

Destroying ballot, booth, etc. (§ 104.26).

Aiding, abetting, or advising violation of the election code (§ 104.901).

Write-in Provisions.

Required on electronic voting systems (§ 104.5606(7)).

Ballot for primary (§ 101.181) does not appear to provide space for write in votes. But in the general election, the ballot form provides space for write in votes. (§ 101.191).

Vacancy in Office.

If a vacancy happens in the representation of the State in the United States Senate, the Governor shall issue a writ of election to fill such vacancy at the next general election; and the Governor may make a temporary appointment until the vacancy is filled by election (§ 100.161).

GEORGIA

Unless otherwise designated, references are to the Georgia Code Annotated (1987) and to the 1989 Cumulative Supplement.

Primary Elections, when held.

Primary elections are held on the third Tuesday in July in each even-numbered year (§ 21-2-150, Supp.). (July 17, 1990)

Candidates may qualify for an election by (1) nomination in party primary; (2) filing nomination petition as an independent or as nominee of political convention; (3) nomination of presidential electors; (4) substitute nomination of a political party; (5) participation in special election; or (6) being an incumbent (§ 21-2-130).

Nominating Papers, Petitions, Etc.

Political party nominees

The names of nominees of political parties nominated in a primary shall be placed on the ballots without their filing the notice of candidacy otherwise required (§ 21-2-132, Supp.).

Political bodies shall hold their conventions in accordance with Code Section 21-2-172 and candidates nominated for state-wide public office in convention shall file a notice of candidacy no earlier than 9:00 a.m. fourth Monday in June and no later than 12:00 Noon on the second Friday following the fourth Monday in June as prescribed in Code Section 21-2-132; provided, however, that the political body must file its qualifying petition no later than the second Tuesday in July following the convention as prescribed in Code Section 21-2-185 in order to qualify its candidates to be listed on the general election ballot (§ 21-2-187, Supp.).

A candidate for any party nomination in a primary may qualify by either of the two following methods:

(1) Payment of a qualifying fee pursuant to Code Section 21-2-131; [3% of annual salary] or

(2) The submission of a pauper's affidavit by any candidate who has filed a qualifying petition by which the candidate under oath affirms his poverty and his resulting inability to pay the qualifying fee otherwise required.

No candidate shall be authorized to file a pauper's affidavit in lieu of paying the qualifying fee otherwise required unless such a candidate has filed a qualifying petition which complies with the following requirements:

> A qualifying petition of a candidate seeking an office which is voted upon state wide shall be signed by a number of voters equal to one-fourth of 1 percent of the total number of registered voters eligible to vote in the last election for the filling of the office the candidate is seeking and the signers of such petition shall be registered and eligible to vote in the election at which such candidate seeks to be elected (§ 21-2-153, Supp.).

Unless otherwise provided by law, all candidates for party nomination in a primary shall qualify as such candidates in accordance with the procedural rules of their party; provided, however, that no person shall be prohibited from qualifying for such office if he:

(1) Meets the requirements of such procedural rules;

(2) Is eligible to hold the office which he seeks;

(3) Is not prohibited from being nominated or elected by provisions of Code Section 21-2-7 or 21-2-8; and

(4) If party rules so require, affirms his allegiance to his party by signing the following oath: "I do hereby swear or affirm my allegiance to the (name of party) Party." (21-2-153(b), Supp.).

In the case of a general primary, the candidates shall commence qualifying at 9:00 A.M. on the fourth Monday in April and shall cease qualifying at 12:00 Noon on the Friday following the fourth Monday in April (April 27, 1990) (§ 21-2-153(c), Supp.).

Each candidate for party nomination shall file an affidavit with the political party at the time of his qualifying (For details concerning such affidavit, see § 21-2-153(e), Supp.).

Independent candidates

All other candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this Code section in order to be eligible to have their names placed on the election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

Each candidate for federal or state office, or his agent, desiring to have his name placed on the election ballot shall file a notice of his candidacy, giving his name, residence address, and the office he is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in June and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election (§ 21-2-132(c), Supp.).

Each candidate required to file a notice of candidacy by this Code section shall, no earlier than 9:00 A.M. on the fourth Monday in June and no later than 12:00 Noon on the second Tuesday in July immediately prior to the election, file with the same official with whom he filed his notice of candidacy a nomination petition in the form prescribed in Code Section 21-2-170 (§ 21-2-132(d), Supp.). Each candidate required by this Code section to file a notice of candidacy shall accompany his notice of candidacy with an affidavit. (For details concerning such affidavit, see § 21-2-132(e), Supp.).

A nomination petition of a candidate seeking an office which is voted upon state wide shall be signed by a number of voters equal to 1 percent of the total number of registered voters eligible to vote in the last election for the filing of the office the candidate is seeking and the signers of such petition shall be registered and eligible to vote in the election at which such candidate seeks to be elected (§ 21-2-170(b), Supp.). No nomination petition shall be circulated prior to 180 days before the last day on which such petition may be filed, and no signature shall be counted unless it was signed within 180 days of the last day for filing the same (§ 21-2-170(e), Supp.).

Filing Fees and Assessments.

Each candidate qualifying for a primary with a state political party and each non-primary candidate filing notice of candidacy with Secretary of State, to pay filing fee of three percent of annual salary (§ 21-2-131, Supp.). Party primary candidates to pay fee to state political party at time of qualification; all other candidates to pay fee to Secretary of State at time of filing notice of candidacy (§ 21-2-131(b), Supp.).

Alternatively, party primary candidate may file pauper's affidavit, under oath, certifying inability to pay fee (§ 21-2-153 Supp.).

Crossfiling by Candidates.

Candidates shall qualify according to party rules and pledge allegiance to party (§ 21-2-153, Supp.).

Subversive Parties Barred from Ballot.

No person who has been adjudged a "subversive persion," as defined in Part 2 of Article 1 of Chapter 11 of Title 16, the "Sedition and Subversive Activities Act of 1953," shall be nominated or elected (§ 21-2-7, Supp.).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 21-2-568).

Intimidation of or hindering voter (§ 21-2-567).

Buying votes (§ 21-2-570).

Intoxicating liquor, sale on election day (§ 21-2-595).

Tampering with voting machine (§ 21-2-580), unauthorized possession of a voting machine key (§ 21-2-581).

Prying into ballots, ballot cards (§ 21-2-578).

False statements or signatures in nomination petitions (§ 21-2-564, Supp.), in notice of candidacy (§ 21-2-565).

Destruction or suppression of nominating petitions (§ 21-2-564), false certificates (*ibid.*).

Unlawful possession of ballots (§ 21-2-574).

False registration (§ 21-2-562).

Refusal to permit inspection of papers; destruction or removal (§ 21-2-585).

Interfering with poll officers (§ 21-2-569).

Offenses by signers of nominating petitions (§ 21-2-563).

Offenses by printers of ballots (§ 21-2-594).

Counterfeit and facsimile ballots, ballot cards or ballot labels (§ 21-2-575).

Destroying or delaying delivery of ballots (§ 21-2-576).

Tampering with vote recorders or tabulating machines (§ 21-2-582).

Destroying, defacing or removing notices, etc. (§ 21-2-583).

Failure of law enforcement officer to quell disturbances at polls; hindering or delaying poll officers and others (§ 21-2-593).

Poll officers permitting unregistered persons to vote; refusing to permit qualified electors to vote; permitting unauthorized assistance of elector (§ 21-2-590).

Various frauds by poll officers (§ 21-2-590).

Giving or receiving unlawful assistance in voting; poll officers permitting unlawful assistance (§ 21-2-591).

Write-in Provisions.

Permitted in general election (§ 22-2-358); on voting machines (§ 21-2-322(7)). Write-in votes prohibited in primary election (§ 21-3-193).

No person elected on a write-in vote shall be eligible to hold office unless notice of intention of candidacy was given 20 or more days prior to the election, to the Secretary of State and by publication in a paper of general circulation in the State (§ 21-2-133, Supp.).

Vacancy in Office.

In the event of a vacancy, it shall be filled by special election at the next November election, occurring at least 40 days after the occurrence of such vacancy, and until such election, the Governor may make a temporary appointment to fill such vacancy (§ 21-2-542).

HAWAII

Unless otherwise indicated, references are to the Hawaii Revised Statutes Annotated 1988.

The State of Hawaii will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Second to last Saturday of September in every even numbered year, provided that in no case shall any primary election precede a general election by less than 45 days (§ 12-2). (September 22, 1990).

Nominating Papers, Petitions, Etc.

No person shall be a candidate for any general election unless he has been nominated in the preceding primary (§ 12-2).

Party candidate for primary.—Nominating paper signed by not less than twenty-five registered voters (§§ 12-3 and 12-5) who are eligible to vote for the candidate at the next election (§ 12-4), to be filed with the chief election officer (i.e., the lieutenant governor; see §§ 11-1, 11-2) not later than 4:30 p.m. on the 60th day before the primary (§ 12-6). (July 24, 1990)

Non-partisan candidate.—Same as party candidate (§ 12-3).

Loyalty oath.—File with nomination papers (§ 12-7).

New Party.—Must file petition with signatures of not less than one percent of total registered voters of the state by 4:30 p.m. on the 150th day before the next primary (§ 11-62).

Filing Fees and Assessments (§ 12-6).

Amount.—$75.00.

Date of payment.—When filing nomination papers.

To whom paid.—Chief Election Officer (i.e., lieutenant governor; see §§ 11-1, 11-2).

Alternatively, file statement of indigency and petition signed by at least one-half of one percent of the total voters registered statewide at the time of filing.

Crossfiling by Candidates (§ 12-3).

Prohibited. Candidate must pledge, in his nomination papers, that he will carry out the provisions and pledges on the political platform of the party, and that he is a member of same. Also, nomination papers may not be filed in behalf of any person for more than one party or for more than one office nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

Subversive Parties Barred from Ballot.

Candidate must swear allegiance to laws of Nation and) State (§ 12-7). No person shall hold any public office or employment who has been convicted of any act to overthrow, or attempt to overthrow, or conspiracy with any person to overthrow the government of Hawaii or of the United States by force or violence (Const. of Hawaii, Art. XVI, § 3).

Offenses.

Unlawfully soliciting votes, corruptly influencing voter, bribery (§§ 19-3(1)—(3), 19-6(1)).

Intimidation of hindering voter (§ 19-3(4)).

Gift or promise of money or thing of value to person to vote or not to vote (§ 19-3(3)).

Unidentified advertising and other printed matter (§ 11-215).

Tampering with voting machine, unlawful possession of voting machine key (§ 19-3(9)).

Electioneering near polls (§ 19-6(7)).

Failure of employer to give time off for voting (§ 11-95).

Payment for withdrawal of candidate (§ 19-3(7)).

Voting in false name, voting more than once, etc. (§ 19-3(5)).

Publishing false statement of withdrawal of any candidate (§ 19-3(6)).

Neglect of duty by public officer (§ 19-3(8)).

Defacing election materials (§ 19-6(2)).

Unlawful duplication of ballots (§ 19-6(3)).

Causing disturbance at election meetings (§ 19-6(4)).

Interference with registration meeting (§ 19-6(5)).

Unlawful loitering within voting area (§ 19-6(6)).

Unauthorized opening of absentee ballot envelope (§ 19-6(8)).

False statement in absentee voting affidavit (§ 19-6(9)).

Failure to obey election laws (general statement) (§ 19-6(11)).

Registering or voting when not qualified, false oaths in this regard, etc. (§ 19-6(12)).

NOTE.—Violations found at § 19-3 are deemed felonies; those found at § 19-6 are misdemeanors.

Write-in Provisions.

No provisions were found.

Vacancy in Office.

When a vacancy occurs in the office of a United States Senator, the vacancy shall be filled for the unexpired term at the following state general election, provided that the vacancy occurs not later than 4:30 p.m. on the sixtieth day prior to the date of the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election, the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the Senator causing the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title (§ 17-1).

IDAHO

Unless otherwise designated, references are to the Idaho Code Annotated 1981 and to the 1989 Cumulative Pocket Supplement.

Primary Elections, when held.

Fourth Tuesday in May. (May 22, 1990) (§ 34-601).

Political Party.

Created in one of three ways: either (1) having three or more candidates for state or national office listed under party name at last general election; (2) having one of its state or national candidates poll at least three percent of the aggregate vote cast for governor; or (3) by a petition of qualified electors equal to two percent of the aggregate vote cast for presidential elections at the last presidential election, filed with Secretary of State on or before August 30 of even numbered years (§ 34-501 Supp.).

All candidates for U.S. Senator to be nominated at primary or as otherwise provided by law (§ 34-703).

Nominating Papers, Petitions, Etc.

Party candidates.—File declaration of candidacy between the tenth Monday and 5 p.m. on the eighth Friday before primary. (§ 34-704 Supp.) with Secretary of State (§§ 34-604, 34-705) and attach thereto a petition with the signatures of 1,000 qualified electors (§ 34-604)(3)). (March 30, 1990).

Independent candidates.—Prohibited in primary (§ 34-708(1)). In general election, file after primary but prior to June 25 of general election year declaration of candidacy with Secretary of State (§ 34-708), along with petition as for party candidates and proper filing fee (§ 34-708(2)).

Filing Fees and Assessments.

$250 (§ 34-604), payable when filing declaration of candidacy.

Crossfiling by Candidates.

Prohibited. All candidates must declare party affiliation in declaration of candidacy; and candidates who file a declaration of candidacy under a party name and are not nominated at the primary election may not be allowed to appear on the general election ballot under any other political party name, or as an independent candidate (§ 34-704).

Offenses.

Electioneering at polls (§ 18-2318).

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 18-2305, 18-2319, 18-2320).

Intimidation of or hindering voter (§§ 18-2305, 18-2319).

Gift or promise of money or thing of value to person to vote or not to vote (§§18-2305, 18-2319).

Betting on outcome of election (§ 18-2314).

Unidentified advertising and other printed matter (§ 67-6614(A)).

Election coercion by employer (§ 18-2319).

Tampering with voting machines (§ 34-2404).

Placing campaign literature, placards, etc., in voting booths (§ 18-2323).

Neglect or malfeasance by election official (§ 18-2301).

False swearing as to qualification as a voter (§ 18-2302).

Refusal of voter to be sworn or to answer questions (§ 18-2303).

Procuring illegal votes (§ 18-2304).

Illegal voting or interference with election (§ 18-2306).

Attempting to vote when not qualified, repeat voting (§ 18-2307).

Attempt by election officer to ascertain how voter voted (§ 18-2308).

Election officers attempting to change result (§ 18-2309).

Forging or counterfeiting election returns (§ 18-2310).

Aiding and abetting election offenses (§ 18-2312).

Riotous conduct and interference with election (§ 18-2313).

Tampering with certificates of nomination or ballots (§ 18-2316).

Destroying or defacing election supplies (§ 18-2317).

Electioneering at polls (§ 18-2318).

Illegal registration of voter, fraudulent permission of registration (§§ 18-2321, 18-2322).

Noncompliance with election laws by election officers (§§ 34-212, 34-214).

Knowingly voting in wrong precinct (§ 34-1106(3)).

Disclosure of classified information by election officers (§ 34-1110).

Write-in Provisions.

Permitted in primary (§ 34-904 supp.); and general elections (§ 34-906); on voting machines (§ 34-2410(1)(c)). To get on the general election ballot, write-in candidate must receive as many write-in votes in the primary as are required on the petition filed with the declaration of candidacy (§ 34-702). Writein candidates must file a declaration of intent with the secretary of state 5 days before the election (§ 34702A).

Vacancy in Office.

Whenever any vacancy shall occur in the office of United States Senator from the State of Idaho by death, resignation or otherwise, the governor shall have the power and is hereby authorized and empowered to fill such vacancy by appointment, and the person so appointed shall hold office unit such time as a United States Senator is regularly elected to fill such vacancy, at the next succeeding general election, and qualifies by virtue of such election; provided, however, that in case a vacancy occurs in the position of United States Senator from the state of Idaho within 30 days of any general election, no election for United States Senator to fill said vacancy shall be held at such general election (§ 59-910).

ILLINOIS

Unless otherwise indicated, references are to Chapter 46 of the Illinois Revised Statutes and to the 1989 Cumulative Annual Pocket Parts.

Primary Elections, when held.

Third Tuesday in March. (§ 2A-1.1(a)) (March 20, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Petition for nomination, including statement of candidacy (§ 7-10, Supp.), and non-Communist oath (§ 7-10.1 Supp.) Petitions for nomination must be signed by not less than 5,000 nor more than 10,000 primary electors of party (§ 7-10, Supp.); file with State Board of Elections not more than 99 days and not less than 92 days before primary (Dec. 18, 1989) (§ 7-12(1), Supp.).

Nomination papers filed under section 7-12 are not valid if the candidate fails to file a statement of economic interests as required by the Illinois Governmental Ethics Code in relation to his candidacy with the appropriate officer by the end of the period of the filing of nomination papers, unless he has filed a statement of economic interests in relation to the same governmental unit with that officer within a year preceding the date on which the nomination papers were filed (§ 7-12(8), Supp.).

Minor and new party candidates and independent candidates

Petition for nomination (minor and new parties) *and nomination papers* (independents), including statement of candidacy and non-Communist oath (§ 10-2, Supp.). Include signatures of not less than one percent of voters who voted at the last statewide election or 25,000 qualified voters, whichever is less (§§ 10-2, 10-3, Supp.). Present to State Election Board at least 92 days before the day of election for which candidates are nominated (Aug. 6, 1990) (§ 10-6 Supp.).

Filing Fees and Assessments.

No statutory provisions were found.

Crossfiling by Candidates (§ 10-7, Supp.).

Prohibited. If candidate's name appears on petition of more than one party or group, candidate must choose one. If nominated for two or more incompatible offices, candidate must choose one (§ 8-9, Supp., § 107, Supp.).

Subversive Parties Barred from Ballot.

Communist Party.—§§ 7-10.1, 10-2, Supp.; § 7-2.

Party advocating overthrow of Government by force or violence.—§§7-10.1, 10-2, Supp.; § 7-2.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 29-1, 29-2, Supp.).

Intimidation of or hindering voter (§ 29-4, Supp.).

Gift or promise of money or thing of value to person to vote or not to vote (§§ 29-1, 29-2; Supp.).

Unidentified advertising and other printed matter (§ 29-14, Supp.).

Furnishing or drinking intoxicating liquor in polling place on election day (§ 17-26).

Tampering with voting machine (§ 29-7, Supp.), ballot box (§ 29-8, Supp.).

Selling of vote (§ 29-3, Supp.).

Voting more than once (§ 29-5, Supp.).

Mutilation of election materials (§ 29-6, Supp.).

Unlawful observation of voting (§ 29-9, Supp.).

Election perjury (§ 29-10, Supp.).

Failure to comply with order of election authority (§ 29-11, Supp.).

Use of appropriated funds to influence election (§§ 101-104, Supp.).

Disregard of election code (§ 29-12, Supp.).

Neglect of duty by election officers (§ 29-16, Supp.).

Deprivation of constitutional rights with respect to voting (§ 29-17, Supp.).

Conspiracy to prevent votes (§ 29-18, Supp.).

Providing false information, encouraging another to do so, etc., in connection with registration (§ 29-19, Supp.).

Write-in Provisions.

Permitted in primary (§ 7-46, Supp.), in general election (§ 17-11, Supp.), on voting machines (§ 24-1, Supp.), on punch card voting system (§ 24A-7, Supp.), and on electronic voting systems (§ 24A-7).

Vacancy in Office.

When a vacancy shall occur in the office of United States Senator from Illinois, the Governor shall make temporary appointment to fill such vacancy until the next election of representatives in Congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as he shall receive his certificate of election (§ 25-8).

INDIANA

Unless otherwise indicated, references are to the Indiana Statutes Annotated (Burns, 1988 Replacement) and to the 1989 Cumulative Supplement.

Primary Elections, when held.

First Tuesday after first Monday in May in general election years (§ 3-10-1-3). (May 8, 1990)

Nominating papers, petitions, etc., for candidate for United States Senate.

Party primary candidate

Declaration of candidacy.—File declaration of candidacy with secretary of state, by noon on the 67th day preceding the primary (earliest filing date: 97 days before primary) (§ 3-8-2-4, Supp.) (March 2, 1990).

Nominating Petitions.—File petitions, signed by at least 5,000 registered voters of the State (at least 500 from each congressional district), with declaration of candidacy (§ 3-8-2-8) (March 4, 1988).

Independent candidate, and *candidate of new and minor party*

Petition of nomination.—Signatures required, from registered voters, equal in number to two percent, of total vote cast for secretary of state at last preceding general election (§ 3-8-6-3). File with Secretary of State by 12 noon August 1 (§§ 3-8-6-10; 3-8-6-12, Supp.).

Filing Fees and Assessments.

No provisions were found.

Crossfiling by Candidates.

Prohibited. Candidate must be registered voter and member of party in primary election. Any person who executes and files a declaration of candidacy for any office may not file a declaration of candidacy for that office in the same primary election in a different political party until the original declaration is withdrawn. (§ 3-8-2-16).

Offenses.

Corruptly influencing voter, bribery (§ 3-14-2-21).

Election board member inducing or persuading voter's vote (§ 3-14-3-17).

Improper collateral acts or threats to influence voter's vote (§ 3-14-3-18).

Giving or offering financial inducement to vote or refrain from voting (§ 3-14-3-19).

Accepting or soliciting financial inducement to vote or refrain from voting (§ 3-14-3-20).

Illegal voter (§ 3-14-2-9, § 3-14-2-10).

Voting in wrong precinct (3-14-2-11).

Breaking ballot box, altering returns (§ 3-14-2-26).

Enclosement of political inducements or threats in paychecks—Handbill or placard forecasting certain business loss if certain candidates elected or defeated (§ 3-14-3-21).

Forwarding materials to publishers to induce, intimidate, etc. voter (§ 3-14-3-22).

Election officers tampering with voting machines (§ 3-14-3-8).

Depositing ballots with distinguishing marks or without clerk's initials (§ 3-14-4-6).

Placing distinguishing mark on ballot (§ 3-14-2-17).

Revealing how elector voted (§ 3-14-4-7).

Voting machine violations (§§ 3-14-3-5 to 3-14-3-8).

Election official refusing to receive vote (§ 3-14-3-9).

False application for registration (§ 3-14-2-1).

Furnishing false information to polltaker, withholding information from polltaker, false return by polltaker (§ 3-14-2-7, § 3-14-2-8).

Write-in Provisions.

No provisions were found.

Vacancy in Office.

A vacancy in the office of the United States Senate that occurs, other than by resignation, shall be certified to the governor by the secretary of state. The governor shall immediately fill a vacancy in the United States Senate by appointing a person possessing the constitutional qualifications necessary for Senator. The person appointed holds office until the next general election, when the vacancy shall be filled by the election of a Senator to hold office for the unexpired term (§ 3-13-31, Supp.).

IOWA

Unless otherwise indicated, references are to the Iowa Code Annotated, including the 1989 Cumulative Annual Pocket Parts.

Primary Elections, when held.

First Tuesday after the First Monday in June in even-numbered years (§ 43.7). (June 5, 1990).

United States Senators shall be nominated and elected in the year preceding the expiration of term of office of incumbent (§ 43.6, Supp.).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Nomination papers.—Signatures are required of at least one percent of the party voters in each of at least ten counties of the State and in the aggregate not less than one-half of one percent of total party vote in State as shown in last general election (§ 43.20, Supp.). File with State Commissioner of Elections not more than eighty-five nor less than sixty-seven days before primary (filing deadline: 5 p.m.) (§ 43.11(2), Supp.). (March 30, 1990).

Affidavit by candidate of eligibility to party candidacy.—File with nomination papers (§§ 43.18, Supp. 43.19).

Candidacy of nonparty political organizations.—Party which did not cast at least two percent of total vote cast for President or Governor at last general election (§ 43.2) may nominate one candidate by convention or caucus (§ 44.1, Supp.).

Nomination certificate signed by the chairman and secretary of convention or caucus shall be filed with State Commissioner of Elections not more than eighty-five or less than sixty-seven days (filing deadline: 5 p.m.) before general election (§§ 44.2, 44.3, Supp., 44.4, Supp.) together with names of at least two hundred and fifty qualified electors who attended convention or caucus, with at least one elector from each of twenty-five counties (§ 44.1, Supp.).

Independent candidates

Nomination petition.—Signatures are required of not less than 1,000 eligible voters of the State (§ 45.1, Supp.). File with State Commissioner of Elections not more than eighty-five nor less than sixty-seven days (deadline: 5 p.m.) before general election (§§ 44.4, 45.4).

Minimum Requirement for Nomination.

Party candidate.—The candidate receiving the highest number of votes at the primary shall be the party nominee provided he received not less than thirty-five percent of all votes cast by his party for United States Senator (§ 43.65).

If no candidate receives the required percentage, the nomination shall be made by State convention (§§ 43.65, 43.78(1)(a)).

Write-in Candidate.—A write-in candidate at the primary election who receives the highest number of votes receives the nomination the same as if his name had been printed on the ballot. However, if there is no candidate on the official primary ballot of a political party for nomination to the Senate, a write-in candidate may receive the nomination only if he receives a number of votes equal to at least thirty-five percent of the total vote cast for all the party's candidates for that office in their last such primary election (§ 43.66, Supp.). Such candidate must file candidate's affidavit within seven days after completion of primary canvass (§ 43.67, Supp.).

Filing Fees and Assessments.

No statutory provisions were found.

Crossfiling by Candidates.

Prohibited. Candidate must be affiliated with party (§ 43.18, Supp. generally; § 43.67, Supp. write-in candidates). If nominated by more than one party, candidate must select one (§ 49.39). Voter in primary may write in the name of a person who is a candidate on some other party ticket, but this is not counted on the other party ticket (§ 43.39). Name of any candidate shall not appear more than once on ballot for the same office (§ 49.38).

The name of a candidate nominated by any other method than by petition shall not be added to the general election ballot by petition (§ 45.2).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 49.120, Supp.).

Intimidation of or hindering voter (§§ 49.107, Supp.).

Promise of appointment to position, place, or office in return for election support (§§ 49.120, 49.121, Supp.).

Treating voters, electioneering during election near polls, etc. (§ 49.107, Supp.).

Election coercion or intimidation of employees by employer (§ 49.110, Supp.).

Employee to have time off for voting without loss of pay if he does not have three hours outside working hours when polls are open (§ 49.109, Supp.).

Destroying defacing election materials prior to closing of the polls (§ 49.111).

Defacing voting machines (§ 52.20, Supp.).

Misconduct by party committeeman or primary election officer or public officer with regard to primary elections (§ 43.119, Supp.); by officers or employees with regard to permanent registration (§ 48.16, Supp.).

Riotous or disorderly conduct at polling place (§ 49.105, Supp.).

Distinguishing marks on ballots, disclosing votes, etc. (§ 49.107, Supp.).

False affidavit in connection with absentee ballot (§ 53.34, Supp.); refusal to return ballot (§ 53.35 Supp.); offenses by election officers (§ 53.36, Supp.).

Write-in Provisions.

Permitted in primary (§ 43.26; §§ 43.66, Supp.) and in general election (§ 49.99, Supp.); on voting machines (§ 52.16, Supp.).

Vacancy in Office.

In the office of United States Senator, when the vacancy occurs when the Senate of the United States is in session or when such Senate will convene prior to the next general election, it shall be filled by the Governor. Such appointment shall be for the period until the vacancy is filled by election pursuant to law (§ 69.8, Supp.).

If a vacancy occurs in the office of Senator in the Congress of the United States seventy-five or more days prior to a general election, and the unexpired term in which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person qualified (§ 69.13, Supp.).

KANSAS

Unless otherwise designated, references are to Kansas Statutes Annotated, 1981, the 1988 Cumulative Supplement and to 1989 Session Laws.

Primary Elections, when held.

First Tuesday in August of even-numbered years (§ 25-203), for nomination of candidates for United States Senator whose term will expire during next succeeding calendar year (§ 25-101). (August 7, 1990).

Nominating Petitions (See generally Sufficiency of Petitions, §§ 25-3601-3607).

Party condidate for primary

Nomination papers.—Signatures are required, equal in number to not less than one percent of the total vote of the party designated in the state (§ 25-205, Supp.). File with Secretary of State (§ 25-208) not later than 12 o'clock noon on June 10, prior to primary (§ 25-205, Supp.). Since June 10, 1990 falls on a Sunday, the filing deadline would be June 11, 1990.

Declaration of intention to become a candidate.—May be filed by candidate in lieu of nomination petitions, with Secretary of State, not later than 12 o'clock noon on June 10, prior to primary (§ 25-205, Supp.).

New or minor parties

Candidate of new party having a State or national organization or minor party which appeared on general election ballot at last preceding general election by whose candidate for Secretary of State did not poll at least five percent of total State vote for Secretary of State.

Such parties may nominate candidates by convention or caucus to be called by State chairman only after filing with the Secretary of State at least sixty days before the deadline for filing nomination petitions and declarations of candidacies, petitions signed by qualified electors equal in number to at least two percent of the total vote cast for all candidates for Governor in the State in the last preceding general election (§§ 25-302a, 25-202).

Party certificate of nomination, signed by presiding officer and secretary of convention or caucus, should be filed with Secretary of State not later than 12 o'clock noon on June 10 (§§ 25-202, 25-305, 25-302a).

Independent candidate

Independent certificate of nominations.—Signatures of not less than 2,500 qualified voters of the State are required (§ 25-303, Supp.). File with Secretary of State not later than 12 o'clock noon on June 10 (§ 25-305).

Filing Fees and Assessments (§ 25-206).

Fee is required only when party candidate for primary, in lieu of nomination petitions, files declaration of intention to become a candidate.

Amount.—One percent of one year's salary.

Date of payment.—At time of filing declaration of intention to become candidate.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited. Candidate must be affiliated with party whose nomination he seeks (§ 25-205, Supp.; § 25-206). Candidate's name may appear only one place on ballot (§§ 25-213, 25-613).

No person shall accept more than one nomination for the same office (§ 25-306).

Subversive Parties Barred from Ballot. No candidate shall file for office as a partisan candidate in a primary election and also file thereafter as an independent candidate (§ 25-202(c)).

Communist Party.—§§ 25-116, 25-117.

Offenses.

Advocating overthrow of Government by force.—§§ 25-116, 25-117.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 25-24-, 25-2410, 25-2417, 25-2418).

Intimidation of or hindering voter (§§ 25-2413, 25-2415).

Intoxicating liquor, sale on election day (§ 41-2704 Supp.).

Refusal of employer to allow employee time off for voting (§ 25-418).

No electioneering or soliciting of votes on election day within polling place or within 250 feet of entrance (§ 25-2430).

Election coercion of employees by employer (§ 25-418).

Corrupt political advertising (failure to identify sponsors, etc.) (§ 25-2407).

Election perjury (false statements re: various election matters) (§ 25-2411).

Election forgery (signing other than own name to election papers) (§ 25-2412).

Disorderly election conduct (§ 25-2413).

Possessing false or forged election supplies (§ 25-2414).

Voting without being qualified (§ 25-2416).

Misconduct or fraud by election officers (§§ 25-2419, 25-2420).

Suppressing nomination papers or causing them not to be filed, etc. (election suppression) (§ 25-2421).

Unauthorized voting disclosure (§ 25-2422).

Tampering with election records (§ 25-2423).

Tampering with voting machine, or unauthorized possession of key (§ 25-2425).

Printing and circulating imitation ballots (§ 25-2426).

Marking ballots to identify (§ 25-2427).

Destruction of election papers or supplies (§§ 25-2428, 25-2429).

False impersonation of voter (§ 25-2431).

Use of voter registration lists for commercial purposes (§ 25-2320a).

False impersonation as party officer (§ 25-2424).

Various absentee voting offenses (§ 25-1128).

Write-in Provisions.

Permitted in primary only if there are no nomination petitions or declarations on file for any particular office. In such case the title of the office shall be printed on the ballot and names may be written in. In order to receive a write-in nomination in such a case, a person must receive at least votes equal in number to ten percent of the total vote cast for all candidates for his party's nomination for governor at last gubernatorial primary (§ 25-213). Permitted in general election (§ 25-616); on voting machines (§ 25-1330); and on electronic voting systems (§ 25-44-09).

Vacancy in Office.

When a vacancy shall occur in the office of United States Senator from this state, the governor shall make a temporary appointment to fill such vacancy until the next election of representatives in Congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as he shall receive his certificate of election (§ 25-318).

KENTUCKY

Unless otherwise designated, references are to Kentucky's Revised Statutes Annotated (1982) the 1988 Cumulative Supplement.

Primary Elections, when held.

First Tuesday after the fourth Monday in May (§ 118.025, Supp.). (May 29, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary (of party which cast at least twenty percent of total vote at last presidential election) (§§ 118-105, Supp. 118.015(1)).

Notification and declaration of candidate accompanied by affidavit of two reputable electors who are members of his party. File with Secretary of State at least 120 days, before primary (§§ 118-125, 118.165, Supp., 118.365(6), Supp.). (Jan. 29, 1990).

Candidate of minor political party

Certificate of nomination.—Party which cast at least two percent but less than twenty percent of total vote of last presidential election may nominate by convention or primary election held by party in accordance with its constitution and bylaws. The certificate of nomination by such a convention or primary election, signed by presiding officer and secretary of convention or by the proper committee chairman and secretary, shall be filed with Secretary of State not less than sixty-eight days before general election (§§ 118.325, 118.356, 118.365, Supp.). Minor political parties that have failed to nominate candidates by convention may nominate by petition as in the case of an independent candidate (§ 118.325(6), Supp.).

Independent candidate

Nomination petition.—Signatures are required of 5,000 legally qualified voters of the State (§ 118.315, Supp.). File with Secretary of State (§ 118.356) not less than sixty-eight days before general election (§ 118.365, Supp.).

Filing Fees and Assessments.

Amount.—$20.00.

Date of payment.—At the time of filing nomination papers by candidate.

To whom paid.—Secretary of State. (§ 118.255, Supp.).

Crossfiling by Candidates.

Candidate who is defeated in primary cannot have his name printed on general election ballot as candidate for same office as an independent or otherwise (§ 118.345, Supp.).

Candidate nominated by primary or party convention and by petition can only have his name printed on ballot once and he may choose whether to be party candidate or independent (§ 118.335).

Offenses.

(For applicability to election of United States Senator, see § 119.295).

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 121.055, 121.310, 119.205).

Preventing voters from casting ballot (§ 119.155).

Interference with or intimidation of election officials (§§ 119.155, 119.255).

Gift or promise of money, or anything of value to procure or influence a vote (§ 119.205).

Intoxicating liquor, furnishing on election day (§ 119.215).

Agreeing for a consideration not to contest an election (§ 120.360).

Election coercion or intimidation of employees by employer (§ 121.310).

Refusal to allow employee time off to vote (§ 118.035).

Failure to identify advertisements and communications with words "paid for by" and name and address of committee or treasurer (§ 121.190).

Assessment of State or Federal employees for election purposes (§ 121.320).

Wrongful registration (§§ 119.015, 119.025).

Alteration or destruction of registration records (§ 119.035).

Interference with registration (§ 119.045).

Alteration or suppression of nomination papers (§ 119.056).

Forgery of nomination papers (§ 119.065).

Improper printing of ballots (§ 119.095).

Destruction of election supplies or booths (§ 119.105).

Unauthorized possession of key to voting machine (§ 119.115).

Tampering with ballot labels or voting machines (§ 119.115).

Refusal to admit challenger (§ 119.145).

False personation of voter (§ 119.165).

Disobeying election officer's command (§ 119.185).

Removing or tampering with ballots (§ 119.195).

Alteration or destruction of stub books, returns, and certificates of election (§ 119.235).

Advising or assisting violation of elections laws (§ 119.275).

Write-in Provisions.

Permitted in general and special elections (§ 117.125).

Vacancy in Office.

The Governor shall fill vacancies in the office of United States Senator by appointment until the next regular election at which members of the lower branch of Congress are elected, and shall, under the Seal of the Commonwealth, certify the appointment to the President of the Senate of the United States. The certificate of appointment shall be countersigned by the Secretary of State (§ 63.200).

LOUISIANA

Unless otherwise designated, references are to the Louisiana Statutes Annotated, Title 18 (1979) and to the 1989 Cumulative Annual Pocket Part.

Primary Elections, when held.

First Saturday in October. (§§ 402(B)(1), 1272, Supp.). (October 6, 1989).

Nominating Papers, Petitions, Etc.

A person who desires to become a candidate in a primary election shall qualify as a candidate by timely filing notice of his candidacy, which shall be accompanied either by the qualifying fee or by a nominating petition (§ 461, Supp.).

Political parties.—See generally § 443.

The State central committee of a recognized political party may adopt rules and regulations for its government that are not inconsistent with the laws of Louisiana.

Notice of candidacy

A notice of candidacy shall be in writing and shall state the candidate's name, the office he seeks, the address of his domicile, the parish, ward, and precinct where he is registered to vote, and the political party, if any, with which he is registered as being affiliated. The notice of candidacy shall also include a certificate, signed by the candidate, certify that he had read the notice of his candidacy and that all the statements contained in it are true and correct, and shall be executed before a notary public or witnessed by two persons who are registered to vote on the office the candidate seeks (§ 463, Supp.). Shall be filed with the Secretary of State by Friday after the fourth Wednesday in July (§§ 467, 468). (July 27, 1990).

Nominating petition

Shall be filed with the Secretary of State and shall accompany the notice of candidacy (§ 465(A)). A person may only be nominated by persons who are registered to vote on the office he seeks and sign a nominating petition for him no more than one hundred and twenty days before the qualifying period opens for candidates in the primary election. Each voter who signs a nominating petition shall provide specified information and may not withdraw the nomination (§ 465(B)).

The number of qualified voters who must timely sign a nominating petition for an office voted on throughout the State is 5000, not less than 500 of which shall be from each of the congressional districts into which the State is divided (§ 465(C)(1)).

Nonsubversive affidavits must accompany all nominating papers (§ 14:372). Independent filing deadline is July 27, 1990.

Filing Fees and Assessments (§ 464, B(1)).

Amount.—$400.

Date of payment.—At time of filing notice of candidacy.

To whom paid.—Secretary of State.

A state central committee of a political party may fix and impose an additional fee to be collected in the manner provided in § 464(C), Supp.

Crossfiling by Candidates.

Prohibited. A person shall not become a candidate in a primary or general election for more than one office unless one of the offices is membership on a political party committee (§ 453A, Supp.).

Subversion Parties Barred from Ballot.

Communist Party.—(§ 14:365).

Tampering with voting machines (§ 1461(A)(15)).

Giving anything of value to a candidate who has withdrawn or been eliminated to secure his support for a remaining candidate (§ 1461(A)(17)).

Electioneering near polls on election day (§ 1462(A)(1),(2),(3),(4)).

Intoxicating liquor, possession at polling place (§ 1462(D)(1)).

Appearance at a polling place in an intoxicated condition (§ 1462(D)(2)).

Advertising and other printed matter falsely alleging that a candidate is supported by another candidate, person, or political faction (§ 1463(B)).

Advertising and other printed matter without name of person responsible for publication or distribution, and if an organization, without names and addresses of all officers and members (§ 1531; see also § 1463(C)).

Excessive charge for political advertisements (§ 1464).

Use of public funds to influence an elector or to appropriate to a candidate or political organization (§ 1465).

Write-in Provisions.

No statutory provisions (information received from office of Secretary of State).

Vacancy in Office.

The Governor may fill any vacancy in the office of United States Senator by appointment; however, if the United States Senate is in session when the vacancy occurs, the Governor within ten days after receiving official notice of the vacancy, shall appoint a Senator to fill the vacancy.

If a vacancy occurs in the office of United States Senator and the unexpired term is more than one year, any appointment to fill the vacancy shall be temporary, and any Senator so appointed shall serve until his successor is elected at a special election and takes office, and the Governor, within ten days after receiving official notice of the vacancy, shall issue his proclamation for a special election to fill the vacancy for the unexpired term. The date of the special election shall be established by the Governor in accordance with the provisions of R.S. 18:402(E). The election shall be conducted and the returns shall be certified as in regular elections for United States Senator. (§ 1278(A), (B), Supp.).

MAINE

Unless otherwise designated, references are to the Maine Revised Statutes Annotated, 1983 ed. and to the 1988–1989 Cumulative Pocket Supplement.

Primary Elections, when held.

Second Tuesday of June of each general election year (§ 339). (June 12, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary (§§ 334–336)

Primary petition.—Signatures by qualified voters of his party are required, equal in number to at least 2,000 but not more than 3,000. File with Secretary of State by or before 5 p.m. on April 1st of the election year in which it is to be used (§ 335, Supp.). Since April 1, 1990 falls on a Sunday, the filing deadline would be April 2, 1990.

Consent of candidate.—Written consent of candidate must be filed with his petition (§ 336).

Independent candidate

Nomination by petition.—Signatures by qualified voters of State are required, equal in number to at least 4,000 and not more than 6,000 voters. Must file petition in the office of the Secretary of State by 5 p.m. on the date of the primary election. (June 12, 1990).

Written consent of each candidate shall be filed with his nomination petition (§ 355).

NOTE. A person may file as a candidate for any federal, state, or county office either by primary election or nomination petition, but not by both (§ 351, Supp.).

Write-in candidate (§ 338)

A person whose name will not appear on the printed primary ballot because he did not file a petition and consent under sections 335 and 336, but who fulfills other qualifications under section 334, may be nominated at the primary election by receiving a number of valid write-in votes, as provided in section 723, subsection 1, equal to at least twice the number of signatures required under section 335, subsection 5, on a primary petition for a candidate for that office.

Within seven days after receiving notice of his nomination, a write-in candidate shall file a written acceptance with the Secretary of State. If such a candidate fails to do so, he becomes disqualified and his name shall not be printed on the general election ballot. (§ 723, Supp.).

Filing Fees and Assessments: No statutory provisions.

Crossfiling by Candidates.

Prohibited. Primary petition must contain the name of candidate's political party (§ 335). Candidate's consent which must be filed with petition must state that candidate will accept the nomination of the party (§ 336). Candidate must be enrolled on April 1 in party named in petition (§ 334) and may not file a petition as a, candidate for nomination by primary election within three months after filing an application to change his enrollment (§ 144). An independent candidate for nomination by nomination petition must withdraw his enrollment in a party three months before the filing date for the nomination petition (§ 145).

A person may file as a candidate for any federal, state, or county office either by primary election or nomination petition, but not by both. A person may not file, whether by primary election or nomination petition, as a candidate for more than one federal, state, or county office at any election (§ 351).

Offenses.

See generally §§ 159, 674, 682, 791.

False registration or enrollment (§ 159).

Fraudulent placement or removal of the name of another on or from a voting list or general register (§ 167).

Voting by absentee ballot if present and able to vote in person (§ 791).

Removal of ballots from voting place except as authorized (§ 674).

Knowingly aiding an ineligible voter (§ 674).

Solicitation of votes from another knowing that other person is under guardianship because of mental illness (§ 674).

Interference with or attempt to influence a voter in marking his ballot (§§ 674, 682).

Unrequested assistance of another in voting (§ 674).

Intentional revealing of ballot to another (§ 674).

Unauthorized activity within 250 feet of voting place or registrar's office on election day (§ 682).

Unreasonable delay in registration or enrollment of another (§ 674).

Forging an absentee ballot, etc. (§ 791).

Tampering with ballots or voting devices (§ 860).

Dual registration (§ 159).

Voting under assumed name (§ 674).

Improper voting (§ 674).

Displaying or distributing a political advertisement in or on state-owned or state-leased property (§ 31).

Bribery (Title 17-A § 602, as amended, chap. 349, Laws 1981).

Improper influence of voter (§ 682).

Write-in Provisions.

Permitted in primary (§§ 338, 723); in general election (§ 692); on voting machines (§ 812) electronic voting system (§ 843).

Must write in the name and municipality of residence of the person whose name is written in (§§ 691, 692).

Vacancy in Office.

Within a reasonable time after a vacancy occurs, the Governor shall appoint a qualified person to fill the vacancy until his successor is elected and qualified.

If the vacancy occurs sixty days or more before a regular primary election, nominees must be chosen at the primary and a successor elected for the remainder of the term at the general election.

If the vacancy occurs less than sixty days before a regular primary election, nominees must be chosen at the next regular primary following the one in question, and a successor elected for the remainder of the term at the general election (§ 391, Supp.).

MARYLAND

Unless otherwise designated, references are to Article 33 Maryland Annotated Code 1957 (1986 Replacement Volume) and to the 1989 Cumulative Supplement.

The State of Maryland will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Second Tuesday after first Monday in September except on second Tuesday in March in those years in which a national convention is held to nominate a President and Vice President (§ 5-2). (September 11, 1990).

Nominating Papers, Petitions, Etc.

Certificates of candidacy for the nomination of Members of Congress must be filed with the State Administrative Board of Election Laws (§ 4A-2(a)). Deadline for filing: Monday, 9:00 p.m., seventy days before the primary election (§ 4A-3). (July 2, 1990).

Independents and minor party candidates (see § 4B-1).

Certificate of candidacy.—Must be filed under oath with the State Administrative Board of Election Laws not later than 9:00 p.m. on the Monday which is ten weeks or seventy days before the primary (§ 4A-3). (July 2, 1990).

Nominating petitions.—Nominating petitions signed by three percent of registered voters eligible to vote for U.S. Senator (§ 7-1(b)(2)). File with State Administrative Board of Election Laws (§ 4A-2(a)). The petition is to be filed by 5 p.m. on the first Monday in August in the election year (Aug. 6, 1990) (§ 7-1(c)(1)).

Write-in candidates

Certificate of candidacy.—Must be filed with the State Administrative Board of Election Laws no later than seven days after total expenditure of $51 is made in candidate's behalf, but shall not be filed later than 5:00 p.m. on the day preceding the day of the election for which filed (§ 4D-1(c)).

Filing Fees and Assessments (§ 4A-6(b)).

Required of all candidates, including minor party and write-in candidates. Can be waived upon filing of sworn statement of inability to pay. (§ 4A-6(b), (f), (h).

Amount.—$290.

Date of payment.—Time of filing certificate of candidacy.

To whom paid.—State Administrative Board of Election Laws.

Crossfiling by Candidates.

Prohibited. Candidate must be affiliated with the party whose nomination he seeks (§ 4A-1(a)).

A person who is defeated in the primary election may not have his name printed on the ballot at the succeeding general election as a candidate of any office, except he may be appointed to fill a vacancy in his party's nomination of which he was a candidate in the primary (§ 8-2).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 24-2(7), 26-16(a)(1)).

Intimidation of or hindering voter (§ 24-2(7)).

Payment or promise of money, advantage, or anything of value to a person to vote or not to vote (§ 26-16(a)(1)).

Drink, providing or using at polls during election (§ 24-24).

Illegal conduct of judges of election (§ 24-8).

Betting on outcome of election (§ 24-25).

Failure of employer to allow employee time off to vote (§ 24-26).

Advertising or other printed matter authorized by treasurer or candidate, without designation that it is printed or published by such authority and that it is an advertisement (§ 26-17(a)).

Charging more than normal rate for political advertising (§ 26-17(b)).

Offering a bribe, accepting or soliciting a bribe (§ 26-16(a) (1-3)).

Advertising or other printed matter concerning a candidate without name of person or officers of organization responsible for publication and distribution (§ 26-16(a)(7)).

Election coercion by employer (§ 26-16(a)(6)).

Electioneering near polls on election day (§ 24-23(a)(4)).

Breach of the peace (§§ 24-16).

Tampering with voting machine (§ 24-19).

Retention of sample of political matter published or distributed (§ 26-17.1).

Defacing or removing records (§ 24-11).

Write-in Provisions.

Prohibited in primary (§ 5-3(f)).

Permitted in general election (§ 14-1(i)); on voting machines (§ 17-5(b); § 16-3(b)3)).

Vacancy in Office.

In the event of a vacancy in said office of Senator, however said vacancy may arise, the Governor of the State shall make a temporary appointment of a Senator who shall serve until the people shall fill such vacancy by nomination and election (§ 21-1(c)).

Special election.—It shall be the duty of the Governor of the State, within ten days after such vacancy shall have been made or becomes known to him, to issue a proclamation accompanied by a writ of election declaring and providing that at the next ensuing primary election held for the nomination of candidates for the House of Representatives, candidates for said unexpired portion of the term, said office of Senator in which such vacancy has occurred shall be nominated in the manner aforesaid. The election of a Senator to fill such unexpired portion of said term shall take place at the next ensuing general congressional election (§ 21-1(d)).

MASSACHUSETTS

Unless otherwise designated, references are to Chapter 53, Massachusetts General Laws Annotated (1975) and to the 1989 Cumulative Annual Pocket Part.

Primary Elections, when held.

Seventh Tuesday preceding biennial State elections; (§ 28, Supp.). (September 18, 1990).

Primary elections shall be held only by political parties which polled at least three percent of the State vote for Governor at the last preceding biennial election (ch. 50, § 1, definition of "political party").

Nominating Papers, Petitions, Etc.

Political party candidate for primary

Nomination papers and candidate written acceptance.—Signatures of at least 10,000 qualified voters of his party are required (§ 44, Supp.). A nomination paper must contain the candidate's written acceptance (§ 45, Supp.). Submit nomination papers to registrars of city or town for *certification,* on or before 5 p.m. of the 28th day before date of filing (§ 46, Supp.). File with Secretary of State on or before 1st Tuesday in June of the year in which a State election is to be held (§ 48, Supp.). (June 5, 1990).

Registrar's certificate, showing that candidate is enrolled voter of party whose nomination he seeks.—File with Secretary of State on or before deadline for filing nomination papers (§ 48, Supp.).

Independent candidate

Nomination papers.—Signatures of voters are required equal in number to two percent of entire State vote for Governor at last biennial election (§ 6, Supp.). Candidate's written acceptance must accompany nomination papers (§ 9, Supp.). Submit nomination papers to registrars of signers' city or town of voting residence, for certification on or before 5 p.m. of the 28th day before the date of filing (§ 7, Supp.). File with Secretary of State (§ 9, Supp.) on or before 1st Tuesday in June of the year in which a State election is held (§ 10, Supp.). Also file certificate of non-enrollment in a party and of registration as voter by deadline for filing nomination papers (§ 48, Supp.).

No person may be nominated as an independent candidate for any office to be filed at a state election if he has been enrolled as a member of a political party during the ninety days prior to the last day for filing nomination papers (§ 6, Supp.).

Write-in candidate

Candidate's written acceptance.—Candidate who was nominated by write-in votes at a primary must file, with Secretary of State, a written acceptance within thirteen days succeeding 5 p.m. of day of primary (§ 3, Supp.).

Filing Fees and Assessments.—No statutory provisions.

Crossfiling by Candidates.

Prohibited. Candidate must be enrolled member of political party whose nomination he seeks (§ 48, Supp.). No person may be nominated as an independent candidate if he has been enrolled as a member of a political party during the ninety days prior to the last day for filing nomination papers (§ 6, Supp.). No person shall be a candidate for nomination for more than one office, except membership in political committees (§ 46, Supp.).

Subversive Parties Barred from Ballot.

Communist Party.—Ch. 50, § 1, definition of Political Party; ch. 264, § 16A, 17.

Advocating overthrow of Government by force.—Ch. 50, § 1, definition of Political Party; ch. 264, § 16.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (ch. 56, § 32).

Intimidation of or hindering voter (ch. 55, § 32; ch. 56, §§ 29, 30).

Gift or promise of money or anything of value to person to vote or not to vote (ch. 56, § 32).

Solicitation of funds from candidate by various organizations and persons (ch. 55, § 11).

Solicitation of political contributions by non-elected public officers and employees (ch. 55, § 13, Supp.).

Soliciting political contributions in public buildings (ch. 55, § 14, Supp.).

Certain political contributions by nonelected public officers and employees (ch. 55, §§ 15, 16, Supp.).

Threat or promise by public officers, etc., to change grade or compensation of public officer or employee for withholding or giving political contribution (ch. 55, § 17, Supp.).

Election coercion or intimidation of employee by employer (ch. 56, § 33).

Promise of appointment or use of official authority in order to influence vote (ch. 55, §§ 34, 35, 36).

Payment to or acceptance of payment by owner, publisher, etc., of newspaper to editorially advocate or oppose candidate (ch. 56, § 38).

Circulars or posters without name of person responsible for same (ch. 56, § 41, Supp.).

Publication of any advertisement in a newspaper or other periodical without the signature of the person responsible therefore and without a statement authorizing the advertisement (ch. 56, § 39, Supp.).

Publication of any advertisement in a newspaper or other periodical without designation that it is advertising (ch. 56, § 39, Supp.).

Inclusion of name of any person in any political advertisement, circular, poster, or publication as an endorser or supporter without consent of such person (ch. 56, § 4).

Publication of false statement in relation to a candidate (ch. 56, § 42).

Use of name of political party in political circular or advertisement without consent of such party (ch. 56, § 40).

Interference with distribution of political printed matter (ch. 56, § 43).

Use by candidate of word "veteran" unless he is a veteran (ch. 56, § 43A, Supp.).

Refusal by employer to allow employee leave of absence for voting (ch. 149, § 178).

Distribution of lists of candidates for State office of more than one political party without political party designation of each candidate, or without the name of voter responsible for same (ch. 56, §§ 44, 44A).

Payment by candidate or political committee for naturalization fees of any person or for assistance in obtaining naturalization papers (ch. 56, § 45).

Intoxicating liquor, sale on election or primary day during polling hours (ch. 138, § 33, Supp.).

Sale of alcoholic beverages in any portion of a building designated as a polling place during voting hours or while votes are being counted (ch. 54, § 24).

Distribution of campaign material within one hundred and fifty feet of polling place (ch. 54 § 65, Supp.).

Collecting signatures on petitions or nomination papers within one hundred and fifty feet of polling place (ch. 54 § 65, Supp.).

Betting on outcome of election (ch. 271, § 17).

Write-in Provisions.

Permitted in primary (§ 3, Supp.; 35A), but person must receive at least as many write-in votes as equal to signatures that would be required to place his name on ballot as primary candidate (§ 40); and, in general election, on voting machines (ch. 54, § 33D) and punchcard voting systems (ch. 54, § 33E).

Vacancy in Office.

The vacancy shall be filled for the unexpired term at the following biennial state election provided said vacancy occurs not less than seventy days prior to the date of the primaries for nominating candidates to be voted for at such election, otherwise at the biennial state election next following. Pending such election the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy (ch. 54, § 139).

MICHIGAN

Unless otherwise designated, references are to Michigan Compiled Laws Annotated, 1989.

Primary Elections, when held.

Tuesday after first Monday in August preceding general November elections (§§ 168.92; 168.534). (August 7, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Nominating petition and affidavit of identification.—Signatures of qualified registered electors are required, equal in number to not less than one percent nor more than four percent of number of votes cast by such party for Secretary of State at last preceding general November election, to include at least one hundred electors in each of at least twenty counties and not more than twenty-five percent of minimum number required may be from one county. File with Secretary of State not later than 4 p.m. of ninth Tuesday preceding August primary (§§ 168.93, 168.544c). Last filing date in 1990—(June 5, 1990). Candidate shall also file two copies of affidavit of identification with the Secretary of State at time of filing nominating petition (§ 168.558).

Candidate of minor party.—Whose principal candidate received less than five percent of total vote cast for Secretary of State in last preceding election—nomination may be by convention (§§ 168.92; 168.532, 168.686a). County caucuses and state conventions must be held not later than the August primary (§ 168.686a). A certificate of nomination, a written notice of acceptance by the candidate, and an affidavit of identity must be filed with the Secretary of State within twenty-four hours of the conclusion of the convention (§ 168.686a).

Filing Fees and Assessments.—No statutory provisions apply to candidates for United States Senator.

Crossfiling by Candidates.

Prohibited. If candidate is nominated by more than one political party, he must select one (§§ 168.692, 168.693). Candidate on primary ballot of one political party is not eligible as candidate of any other political party on general election ballot (§ 168.695).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 168.931 (a), (e); 168.932(a)).

Intimidation of or hindering voters (§§ 168.931(d), 168.932(a)).

Promise of money or anything of value to a person to vote or not to vote (§ 168.931(b)).

Solicitation of votes at polling place (§ 168.931(p)).

Transportation of voters other than infirm or disabled (§ 168.931(k)).

Bribing officers or members at a political nominating meeting (§ 168.931(n), (o)).

Betting on outcome of election (§ 168.931(q)).

Solicitation of funds from candidate by various organizations and persons (§ 168.931(c)).

Publication of false statement in relation to a candidate (§ 168.931(t)).

Election coercion or intimidation of employees by employer (§ 168.931(d)).

Candidate's indication of incumbency when in fact he is not the incumbent (§ 168.944).

Tampering with voting machine (§ 168.790).

Possessing master key for any voting machine or device (§ 168.947).

Inducing improper applications for absentee voters when such voters are not qualified to vote (§ 168.945).

Write-in Provisions.

Permitted in primary (§ 168.576); however, write-in candidate on primary ballot shall not be certified as a nominee unless he receives a total vote equal to not less than .15 of one percent of the total population of the state, but not less than ten votes, or a total vote equal to five percent of the greatest number of votes cast by the party for any office at the primary in the state, for a candidate or for all candidates for nomination for an office for which only one person is to be nominated, whichever is greater (§ 168.582).

Permitted in general, election (§ 168.706) on voting machines (§§ 168.782a, 168.784).

Vacancy in Office.

Whenever a vacancy shall occur in the office of United States Senator, the Governor shall appoint, to fill the vacancy, some suitable person having the necessary qualifications for Senator. The person so appointed shall hold office from the time of his appointment and qualification until the first day of December following the next general November election which occurs more than one hundred twenty days after such vacancy happens. At such general November election, a United States Senator to fill such vacancy shall be elected and the person so elected shall hold office from the first day of December following such election for the balance of the unexpired term of the Senator whose vacancy is filled. (§ 168.105).

MINNESOTA

Unless otherwise designated, references are to Minnesota Statutes Annotated (1962) and to the 1988–1989 Cumulative Annual Pocket Part.

Primary Elections, when held.

First Tuesday after second Monday in September in even-numbered years (§ 204D.03(1), Supp.). (September 11, 1990).

Nominating Papers, Petitions, Etc.

Major party candidate for primary (§ 204D.10, Supp.). The candidate for nomination of a major political party for a partisan office on the state partisan primary ballot who receives the highest number of votes shall be the nominee of that political party of that office (§ 204D.10, Subd. 1).

Affidavit of candidacy.—File with Secretary of State not more than seventy nor less than fifty-six days before primary

(§§ 204B.03, 204B.09, Subd. 1, Supp.). Last filing date in 1990—July 17, 1990.

Independent.—Signatures are required to be obtained during the period allowed for filing nominating petitions (§ 204B.08, Subd. 1, Supp.), equal in number to one percent of the total number of persons voting at the last preceding State general election, or 2,000, whichever is less (§ 204B.08, Subd. 3, Supp.). File nominating petitions and affidavit of candidacy with Secretary of State not more than seventy nor less than fifty-six days before primary. (§§ 204B.03, 204B.09, Subd. 1, Supp.).

Filing Fees and Assessments (§ 204B.11, Supp.).

Amount.—$200.

Date of payment.—At time of filing affidavit of candidacy.

To whom paid.—Secretary of State.

A petition signed by 2,000 voters may be presented in lieu of the filing fee.

Crossfiling by Candidates.

Prohibited.—Candidates required to support party (§ 204B.06, Subd. 1, Supp.). Person who has been a candidate at the primary election shall not be eligible for nomination by petition for same office in that year (§ 204B.04, Subd. 1, Supp.). No person shall be named on the official ballot as candidate of more than one major political party (§ 204B.04, Subd. 1, Supp.).

Subversive Parties Barred from Ballot.

The Minnesota Criminal Syndicalism Statute (Minnesota Statutes Annotated, § 609.405) makes criminal the promotion of organizations advocating violence to accomplish political ends.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 211B.13, Supp.).

Intimidation of or hindering voter (§ 211B.07, Supp.).

Payment, giving, or promise of money, employment, appointment, or anything of value to a person to vote or not to vote (§ 211B.13, Supp.).

Entertainment to promote an election (§ 211B.13, Supp.).

Transportation of voters to and from polls (§ 211B.11, Supp.).

Intoxicating liquor, furnishing (§ 211B.13, Supp.), or possession at polling place (§ 204C.06, Subd. 7, Supp.).

Advertising (paid) in newspapers, periodicals, or magazines without labeling same "Paid Advertisement," without including amount paid or to be paid for the advertisement, and without name and address of candidate or any other person authorizing same (§ 211B.05, Supp.).

Compensation to owner, publisher, etc., of newspaper, or periodical, to attempt to influence election through newspaper or periodical, except for paid advertisement (§ 211B.06, Supp.).

Campaign literature without name and address of candidate and of any other person or committee causing the same to be published or circulated (§ 211B.04, Supp.).

Solicitation of funds from candidate by various specified organizations and persons (§ 211B.08, Supp.).

Refusing or interfering with election privileges of employees, by employer (§ 211B.07).

False claim by candidate or other of support of candidate by party or any organization (§ 211B.02, Supp.).

Payment or promise to reward person, to induce him to become or refrain from becoming or being a candidate (§ 211B.10, Supp.).

Payment to voter for loss due to attendance at polls or in registering to vote (§ 211B.13, Supp.).

Badges, buttons, etc., providing, to be worn at or about the polls on day of primary or general election (§ 211B.11).

Distribution of campaign cards, etc., by candidate on the day of any primary or general election (§ 211B.11).

Election coercion by employer (§ 211B.07, Supp.).

Payment for personal services respecting elections except for hiring of challenges and watchers (§ 211B.13, Supp.).

Disorderly conduct at polling places (§ 204C.06, subdivisions 1, 2, Supp.).

Unlawful voting (§ 204C.14, Supp.).

Damaging or removing election materials from polling place (§ 204C.06, Subdivisions 3, 4, Supp.).

Soliciting near polling place (§ 211B.11, Supp.).

Refusing to provide employee time off to vote (§ 204C.04, Supp.).

Mismarking voter's ballot (§ 204C.16, Supp.).

Disclosing ballot (§§ 204C.16, 204C.17, Supp.).

Noting voter's party in election register (§ 204C.18, Subd. 1, Supp.).

Placing identifying mark on voter's ballot (§ 204C.18, Subd. 2, Supp.).

Interfering with ballots during counting (§ 204C.19, Subd. 1, Supp.).

Premature disclosure or count results (§ 204C.19, Subd. 3, Supp.).

Improper delivery of returns (§ 204C.29, Supp.).

Neglect of duty by election officials (§ 204C.41, Supp.).

False statements in paid political advertising or campaign material (§ 210A.04, Supp.).

Write-in Provisions.

Not permitted in primary (§§ 204B.36, Subd. 2, 204D.08, Subd. 2, Supp.).

Permitted in general election (§ 204B.36, Subd. 2, Supp.) on voting machines (§ 206.07, Subd. 4).

Vacancy in Office.

Every vacancy shall be filed for the remainder of the term by a special election, except that no special election shall be held in the year before the term expires. The special election shall be held at the next November election if the vacancy occurs at least six weeks before the regular primary preceding that election. If the vacancy occurs less than six weeks before the regular primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs. The Governor may make a temporary appointment to fill any vacancy (§ 204D.28, Supp.).

MISSISSIPPI

Unless otherwise designated, references are to Mississippi Code Annotated 1972 and to the 1989 Cumulative Supplement.

Primary Election, when held.

Except as may be otherwise provided by Section 23–15–1081, the first primary election for Congressmen shall be held on the first Tuesday in June of the years in which congressmen are elected (June 5, 1990), and the second primary, when one is necessary, shall be held three (3) weeks thereafter (June 26, 1990). Each year in which a presidential election is held, the congressional primary shall be held as provided in Section 23-15–1081 which requires that the primary be held on the second Tuesday in March. The election shall be held in all districts of the state on the same day. Candidates for United States Senator shall be nominated at the congressional primary next preceding the general election at which a Senator is to be elected and in the same manner that Congressmen are nominated, and the chairman and secretary of the State Executive Committee shall certify the vote for United States Senator to the Secretary of State in the same manner that county executive committees certify the returns of counties in general state and county primary elections (Mississippi Code Annotated, § 23–15-1031, Supp.).

Nominating Papers, Petitions, Etc.

A written statement by the candidate containing the name and address of the candidate, the party affiliation of the candidate, and the office sought by the candidate must by filed with the Secretary of the State Executive Committee 60 days before the primary election. (April 6, 1990) (§ 23–15–299(3)).

The name of any candidate shall not be placed upon the official ballot in general elections as a party nominee who is not nominated, and the election of any party nominee who shall be nominated otherwise than as provided in this chapter shall be void and he shall not be entitled to hold the office to which he may have been elected (§ 23–15–307, Supp.).

Filing Fees and Assessments.

Candidates for United States Senator shall pay a filing fee not to exceed $300 to the Secretary of the State Executive Committee 60 days before the primary election (§§ 23–15–297, 23–15–299, Supp.). (April 6, 1990).

Crossfiling by Candidates.

Prohibited. Candidate required to support party. A voter or candidate at a primary is excluded from later becoming a candidate of another party in the general election. "Every person who participates in a primary election for the nomination of party candidates thereby under the statute, is deemed and held to have entered into a pledge that he will in general election support the nominations made in the primary election in which he participates." Ops. Atty. Gen. 1931–33, p. 37. *Ruhr* v. *Cowan*, 146 Miss. 870, 112 So. 386 (1927). However, participating in a primary without being nominated therein does not preclude one from becoming an independent candidate upon the petition of other participants. *Bowen* v. *Williams,* 117 So.2d 710 (1960).

Offenses.

Unlawful possession of voting machine or keys (§ 23-15-447, Supp.).

Unlawful showing mark on ballot (§ 23-15-555, Supp.).

Unlawful election lottery (§ 23-15-561, Supp.).

Violations by registrar or commissioner of elections (§ 23-15-751, Supp.).

Vote fraud (§ 23-15-753, Supp.).

Election coercion or intimidation of employees by employer (§ 23-15-871, Supp.).

Promising employment (§ 23-15-873, Supp.).

Buying or selling vote (§ 23-15-889, Supp.).

Intoxicating liquors (§ 23-15-893, Supp.).

Distributing campaign material within 150 feet of polling place (§ 23-15-895, Supp.).

Write-in Provisions.

Permitted on printed ballots (§ 23-15-365, Supp.).

Permitted on electronic voting systems (§ 23-15-469, Supp.).

Vacancy in Office.

If a vacancy shall occur in the office of United States Senator from Mississippi by death, resignation, or otherwise, the governor shall, within ten days after receiving official notice of such vacancy, issue his proclamation for an election to be held in the State to elect a senator to fill such unexpired term as may remain, provided the unexpired term is more than twelve months and the election shall be held within ninety days from the time the proclamation is issued and the returns of such election shall be certified to the Governor in the manner set out above for regular elections unless the vacancy occurs in a year in which there shall be held a general state or congressional election, in which event the Governor's proclamation shall designate the general election day as the time for electing a senator, and the vacancy shall be filled by appointment as hereinafter provided (§ 23-15-855, Supp.).

In case of a vacancy, the Governor may appoint a Senator to fill such vacancy temporarily, and if the United States Senate is in session at the time the vacancy occurs, the Governor shall appoint a Senator within ten days after receiving official notice thereof, and the Senator so appointed shall serve until his successor is elected and commissioned; provided, that such unexpired term as he may be appointed to fill shall be for a longer time than one year, but if for a shorter time than one year, he shall serve for the full time of the unexpired term and no special election shall be called by the Governor, but his successor shall be elected at the regular election (§ 23-15-855, Supp.).

MISSOURI

Unless otherwise designated, references are to Vernon's Annotated Missouri Statutes (1980) and to the 1989 Cumulative Annual Pocket Part.

The State of Missouri will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First Tuesday after first Monday in August of even-numbered years (§§ 115.121, 115.341). (August 7, 1990).

If two or more persons receive an equal number of votes for nomination as a party's candidate for any federal office and a higher number of votes than any other candidate for the same office on the same party ballot, the Governor shall issue a proclamation stating that fact and order a special primary election to determine the party's nominee for the office (§ 115.515).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—On or before 5 p.m. on the last Tuesday in March preceding the primary (§ 115.349(1)). (March 27, 1990). File with Secretary of State (§ 115.353(1), Supp.).

New parties and independents

Nomination petition.—Signatures of qualified voters are required in each of the several congressional districts, equal to at least two percent of the total number of votes cast at the last election for governor in the last gubernatorial election or of a number of qualified voters in each of one-half of the several congressional districts which is equal to at least two percent of the total number of votes cast in the district for governor at the last gubernatorial election (§§ 115.315(4), 115.321(3)). New parties and independent candidates file with Secretary of State (§§ 115.315(1), 115.321(1)). The Secretary of State shall not accept for filing any petition for the formation of a new party or for the nomination of an independent candidate which is submitted prior to 8:00 a.m. on the day immediately following the general election next preceding the general election for which the petition is submitted or which is submitted after 5:00 p.m. on the first Monday in August (August 6, 1990) immediately preceding the general election for which the petition is submitted (§ 115.329(1)).

Statement of candidacy.—Each petition for the nomination of an independent candidate or for the formation of a new political party shall include a declaration of candidacy stating that he is legally qualified to hold such office (§ 115.327).

Filing Fees and Assessments (§ 115.357).

Amount.—$200.

Date of payment.—Before filing declaration of candidacy.

To whom paid.—To the treasurer of the State central committee of the political party.

Exceptions.—(1) Any person who cannot pay the fee required to file as a candidate may have the fee waived by filing a declaration of inability to pay and a petition with his declaration of candidacy. (2) No filing fee shall be required of any person who proposes to be an independent candidate, the candidate of a new party, or a candidate for presidential elector.

Crossfiling by Candidates.

Prohibited. No person who files as a party candidate for nomination or election to an office shall, without withdrawing, file as another party's candidate or an independent candidate for nomination or election to the office for the same term. No person who files as an independent candidate for election to an office shall, without withdrawing, file as a party candidate for nomination or election to the office for the same term. No person shall file for one office and, without withdrawing, file for another office to be filled at the same election (§ 115.351).

Offenses.

Furnishing false information to an election authority or election official (§ 115.631(1), Supp.).

Voting more than once or voting when unentitled to vote (§ 115.631(2), Supp.).

Knowingly procuring an illegal vote to be cast (§ 115.631(3), Supp.).

Applying for a ballot in the name of another (§ 115.631(4), Supp.).

Defrauding a voter of his vote (§ 115.631(7), Supp.).

Knowingly removing any legal ballot from a ballot box to change the election count (§ 115.631(10), Supp.).

Knowingly damaging or concealing a ballot, poll list, etc. (§ 115.631 (11), (12), Supp.).

Destroying or damaging official ballots (§ 115.631(15), Supp.).

Tampering with voting machine (§§ 115.631(16), 115.633(2)).

Unlawfully registering to vote or procuring anyone else to register unlawfully (§ 115.631 (17), (18), Supp.).

Improper assistance to blind or disabled voter (§ 115.631(20), Supp.).

Tampering with the ballot box (§ 115.631(1), Supp.).

Gift or promise of money, employment, or anything of value to a person to vote or not to vote (§ 115.635(1)).

Intimidation of or hindering voter (§ 115.635(2)).

Impeding the free exercise of the franchise (§ 115.635(3)).

Giving of any money or gratuity in consideration of any grant or deputation of office (§ 115.635(4)).

Bringing a non-resident into the State so that the non-resident can vote with the proper qualifications (§ 115.635(5)).

Asking for, receiving, or taking any reward for voting or refraining from voting (§ 115.635(6)).

Defacing any sample ballots (§ 115.637(1), Supp.).

Printing false and fraudulent sample ballots (§ 115.637(2), Supp.).

Promising to discharge the duties of an office for less than the salary fixed by law as an inducement to voters (§ 115.637(4), Supp.).

Advertising and other printed matter without name and address of persons responsible for publishing and distributing same or of offices, if organization publishes or circulates same (§ 115.637(5), Supp.).

Employer's attempt to prevent employee from engaging in political activites (§ 115.637(7), Supp.).

Interfering with any voter inside a polling place (§ 115.637(17), Supp.).

Employer's refusal to allow employee time off to vote at primary or general election (§ 115.639(1)).

Intoxicating liquor, furnishing on election day (§ 311.480(3, Supp.).

Write-in Provisions.

Not permitted in primary (§ 115.395). Permitted in general election (§ 115.439(3)), on voting machines and electronic devices (§§ 115.225(2),(4), 115.231).

Vacancy in Office.

Whenever a vacancy in the office of Senator of the United States occurs, the Governor shall appoint a person to fill such vacancy who shall continue in office until a successor shall have been duly elected and qualified according to law (§ 105.040).

MONTANA

Unless otherwise specified, references are to the Montana Code annotated, 1989.

Primary Elections, when held.

First Tuesday after first Monday in June before the general elections (§ 13-1-107(1)). (June 5, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of nomination.—No sooner than first business day in January of the election year and no later than 5 p.m. seventy-five days before the primary (§ 13-10-201). (Filing deadline is March 22, 1990.) File with Secretary of State (§ 13-10-201).

Minor party candidates

A political party that does not qualify to hold a primary election may qualify to nominate its candidates by primary election by presenting a petition, in a form prescribed by the Secretary of State, requesting the primary election and signed by a number of registered voters equal to 5 percent or more of the total votes cast for the successful candidate for governor at the last general election, which number must include the registered voters in more than one-third of the legislative districts equal to 5 percent or more of the total votes cast for the successful candidate for governor at the last general election in those districts. The petition must be presented to the election administrator of the county in which the signatures were gathered to be verified under the procedures provided in 13-27-303 through 13-27-306. The election administrator shall forward the verified petition to the Secretary of State at least 75 days before the date of the primary. The petition must be submitted to the election administrator at least 1 week before the deadline for submitting the verified petition to the Secretary of State. Independent filing deadline is August 6, 1990.

Write-in Candidate (§ 13-10-204).

Declaration of acceptance of nomination. Within ten days after canvass, file with Secretary of State.

Number of write-in votes required.—At least five percent of the votes cast for successful candidate for United States Senator at last preceding general election.

Filing Fees and Assessments.

Amount for party, minority party, independent, and write-in candidates.—One percent of annual salary (§ 13-10-202).

Date of payment.—No later than seventy-five days before the primary for party candidate (§ 13-10-201). For minor party and independent candidates, on or before the filing deadline for primary (§ 13-10-503). For write-in candidates, no later than ten days after official primary canvass (§ 13-10-204).

To whom paid.—Secretary of State (§ 13-10-201).

Indigent candidates.—If a candidate is unable to pay the filing fee, he may submit in lieu thereof a verified statement that he is unable to pay the fee and, if a candidate for party nomination, a nomination petition signed by five percent of the total vote cast for the successful candidate for U.S. Senator at the last general election (§ 13-10-203).

Crossfiling by Candidates.

No candidate shall have his name printed on more than one ticket. If nominated on more than one ticket, candidate shall make a choice of tickets by filing written document with Secretary of State within ten days after nomination (§ 13-10-303).

An individual who has filed as an independent forfeits his place on the general election ballot as an independent candidate if he accepts a write-in nomination (§ 13-10-305).

Offenses.

Unlawful solicitation of voters, corruptly influencing voter, bribery (§§ 13-35-215, 13-35-218).

Preventing public meetings of electors by intimidation, violence, etc. (§ 13-35-213).

Promise of money, employment, appointment, or anything of value to a person to vote or not to vote (§ 13-35-215).

Electioneering near polls on election day (§ 13-35-211).

Defacing or destroying election records, equipment, and materials (§§ 13-35-205, 13-35-206).

Intoxicating liquor and other food, drink, etc., treating voter to (§§ 13-35-214, 13-35-215).

Bribing officers or members at a political nominating meeting (§ 13-35-220).

Election materials without name and address of printer (if printed commercially) and name and address of person who made or financed the expenditure for the communication (§ 13-35-225).

Obstructing entrance to polling place (§ 13-35-218).

Tampering with voting machines (§ 13-35-206).

Election coercion by employers (§ 13-35-226).

Payment or receipt of money for inducing person to be or not to be a candidate (§ 13-35-221).

Coercion of public employees to contribute to a political committee or a candidate (§ 13-35-226).

Solicitation of political contributions by public employees while at their place of employment (§ 13-35-226).

Write-in Provisions.

Permitted in primary and in general election (§ 13-12-208); on voting machines (§ 13-17-103).

Vacancy in Office.

If a vacancy occurs, an election to fill the vacancy shall be held at the next general election. If the election is invalid or not held at that time, the election to fill the vacancy shall be held at the next succeeding general election. The Governor may make a temporary appointment to fill the vacancy until an election is held (§ 13-25-202).

NEBRASKA

Unless otherwise designated, references are to the Revised Statutes of Nebraska 1984. The 1989 Session Laws have been examined.

Primary Elections, when held.

First Tuesday after second Monday in May in even-numbered years (§ 32-505). (May 15, 1990).

Nominating Papers, Petitions, Etc.

Primary candidates: only for party which polled at least five percent of State vote in last election (§ 32.521).

Nomination petition by candidate or by twenty-five electors of his party—at least sixty days before primary (§§ 32-514, 32-503.01). (March 16, 1990). File with Secretary of State (§ 32.512).

Candidate's statement of party affiliation.—If petition is filed by twenty-five electors—file within five days after filing of nomination petition (§ 32-514(3)). If nomination petition is by candidate—include in nominating petition (§ 32-514(2)).

Candidate by petition

Petition for nomination, signed by 2,000 electors of the State—at least seventy days prior to general election, file with Secretary of State (Aug. 28, 1990) (§ 32-504).

Affidavit of personal nomination filed with the Secretary of State seventy days prior to general election (§ 32-504(7)).

Filing Fees and Assessments.

By primary candidates, by candidates by petition, and by write-in candidates (§§ 32-513 and 32-504(1)(b)).

Amount.—One percent of annual salary.

Date of payment.—Prior to filing nomination petition, except for write-in candidates, who must pay within ten days after the canvass of votes.

To whom paid.—County treasurer of county of candidate's residence.

Crossfiling by Candidates.

Prohibited. Candidates must be affiliated for ninety days with party named in his nomination papers (§ 32-515).

Candidate's name may appear only on one party ticket. The voters of one party may vote for candidate of another party by writing in his name, but, if he should lose the nomination of his party, he shall not be permitted to accept the write-in nomination. (§ 32-516).

No candidate defeated at the primary may file by petition in the following general election (§ 32-516).

A candidate for nomination for the office of Governor, who is defeated at the primary election, is not eligible to be a candidate by petition for the office of United States Senator at the following election. *State ex rel. O'Sullivan* v. *Swanson,* 127, Neb. 806, 257 N.W. 255 (1934).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 32-1206, 32-1209, 32-1237).

Intimidation of or hindering voter (§§ 32-1223, 32-1224, 32-1232, 32-1237(2)).

Intoxicating liquor, taking or sending to place of registration (§ 32-1234).

False oaths regarding political party affiliation (§ 32-515).

Prohibition of electioneering within 200 feet of a polling place (§ 32-1221, Supp.).

Election coercion of employees by employers (§§ 32-1223, 32-1050).

Acceptance of or offer to accept money or thing of value for becoming or refraining from becoming a candidate for nomination in a primary (§ 32-1237(6), (7)).

Employee is entitled to time off for voting without loss of pay (§ 32-1046).

Bribing voter to sign nomination papers (§ 32-1237(8)).

Voting out of resident precinct or country of residence (§§ 32-1202, 32-1207).

Deceiving illiterate elector (§ 32-1210).

Altering or defacing list of voters book or election records (§ 32-1214).

Unlawful possession of list of voters book tally sheets, or election records (§ 32-1215).

Write-in Provisions.

Permitted in primary (§ 32-516). However, if write-in candidate wins the nomination by write-in but loses nominations as candidate printed on his party's primary ticket, he may not accept the write-in nomination (§ 32-516).

Permitted in general election, but not for candidates for President and Vice President (§§ 32-428, 32-451).

Permitted on punch card voting systems (§ 32-4,132).

Vacancy in Office.

If vacancy occurs, it shall be filed forthwith by the Governor, who shall have power to appoint to fill such vacancy some suitable person possessing the qualifications necessary for Senator. If such vacancy occurs within sixty days of a regular general election and the term vacated expires on January 3 following, said appointee shall serve until said January 3; if said term extends beyond January 3 next, said appointee shall serve until January 3 following the second regular general election next succeeding his appointment. If the vacancy occurs more than sixty days before a regular general election, said appointee shall serve until January 3 following said general election and at said regular general election a Senator shall be elected to serve the unexpired term if any (§ 32-1042(4)).

NEVADA

Unless otherwise designated, references are to Nevada Revised Statutes (1986) and the 1989 Cumulative Supplement.

The State of Nevada will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First Tuesday in September in general election years (§ 293.175(1), Supp.). (September 4, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary (§§ 293.167, 293.177, Supp., 293.185, supp.)

Declaration of candidacy.—File with Secretary of State not earlier than January 1 of the year in which the election is to be held nor later than 5 p.m. of the second Tuesday in May (§ 293.177, Supp.). (May 8, 1990).

Certificate of candidacy.—Ten or more registered voters of his party may file with Secretary of State not earlier than the first Monday in April nor later than 5 p.m. on the last Friday in May. In such a case, however, candidate must file an Acceptance of Nomination with the Secretary of State and at the same time must pay the required filing fee (§ 293.180, Supp.).

Independent candidate. (§ 293.200, Supp.).

Petition of candidate.—Signatures are required of electors in the State, equal in number to at least three percent of entire State vote cast in last general election. File with Secretary of State not earlier than January 1 and not later than the second Friday in August.

Filing Fees and Assessments.

For party candidates and for independents (§ 293.193, Supp.).

Amount. $250.

Date of payment.—At time of filing nomination papers by candidate.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited.—Candidate required to support party. Person can not be a candidate for party nomination is a primary election if he has changed the designation of his political party affiliation on an official affidavit of registration in Nevada or in any other State since September 1 prior to the closing filing date for the election (§ 293.176, Supp.).

Candidate must swear that he has not changed the designation of his political party affiliation since September 1 prior to the closing filing date for the election (§ 293.177). A person may not file as an independent candidate if he is proposing to run as the candidate of a political party whose name includes the word "independent" (§ 293.200, Supp.).

Offenses.

Bribery of election (§ 293.700, Supp.).

Bribery, disqualification from office (Const. Art. 4, § 10).

Intimidation of or hindering voter (§ 293.710, Supp.).

Betting on outcome of election (§ 293.830, Supp.).

Impeding or preventing employee free exercise of franchise (§ 293.710, Supp.).

Denial by employer of leave of absence to employee for purposes of voting (§ 293.463).

Place any identifying mark on his ballot or to show his ballot to any person (§ 293.730, Supp.).

Electioneering on election day within 100 feet of polls (§ 293.740, Supp.).

Voting more than once (§ 293.740, Supp.).

Removal of ballots from polling place before the closing of the polls (§ 293.730, Supp.).

Improper receipt or delivery of ballots (§ 293.730, Supp.).

Removal or destruction of election supplies (§ 293.750, Supp.).

Alteration, removal, or destruction of copy of results of votes cast posted outside a polling place (§ 293.760, Supp.).

Unlawful voting by person whose vote has been rejected (§ 293.790, Supp.).

Falsification of registration records (§ 293.800, Supp.).

Write-in Provisions.

Not permitted. (§ 293.270, Supp.).

Vacancy in Office.

If a vacancy occurs due to death, resignation or otherwise, the Governor may appoint some qualified person to fill the vacancy, who shall hold office until the next general election and until his successor shall be elected and seated (§ 304.030).

NEW HAMPSHIRE

Unless otherwise designated references are to the New Hampshire Revised Statutes Annotated (1986 Replacement ed.) and to the 1988 Cumulative Supplement.

Primary Elections, when held.

Second Tuesday in September of every even-numbered year (§ 653:8). (September 11, 1990).

Nomination Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—File with Secretary of State between the first Wednesday in June and the Friday of the following week. (No later than June 15, 1990). (§§ 655:14, 655:15, 655:17).

Voluntary spending limits.—A 1989 election statute sets a $400,000 voluntary spending limit for the primary election and a $400,000 voluntary spending limit for the general election for U.S. senatorial candidates. If the U.S. senatorial candidates voluntarily agree to such spending limits, they will not be required to pay a filing fee and obtain notarized signatures by party members on nominating petitions. For those U.S. Senatorial candidates not agreeing to voluntarily abide by such spending limits, they will be required to pay a $5,000 filing fee and obtain 2,000 notarized signatures from members of their political party. These requirements would have to be met in order to attain ballot access and would have to be filed with the Secretary of State by the filing deadline.

Primary petitions and assent to candidacy.—Signatures on separate petitions are required of 200 voters who are members of the candidate's party (§§ 655:21, 655:22, 655:23). Petitions must be accompanied by written assent to candidacy (§ 655:25). File with Secretary of State (in person if filing on last day) (§§ 655:15, 655:16) (June 15, 1990). (§ 655:19).

Filing fee.—In lieu of filing primary petitions and an assent to candidacy, a candidate may pay a filing fee of $100 at the time of filing declaration of candidacy (§ 655:19).

Independent candidate

Nomination papers.—Separate signed petitions of 3,000 qualified voters of the State, 1,500 from each U.S. congressional district in the State, are required (§§ 655:40, 655:42). File with Secretary of State no later than 5:00 p.m. on the Wednesday three weeks before the primary (§ 655:43).

Declaration of intent.—Candidates who intend to have their names placed on the general election ballot by means other than nomination by party primary shall file a declaration of intent with the Secretary of State between the first Wednesday in June and the Friday of the following week (§ 655:14-a).

Filing Fees and Assessments (required of candidates who file a declaration of candidacy (§ 655:19).

Crossfiling by Candidates.

Prohibited.—Candidate required to be affiliated with political party (§ 655:14).

A person nominated by the same party for incompatible offices must notify the Secretary of State within 10 days from the date of the primary of which nomination he will accept (§ 659:91).

A defeated party candidate in a primary election may not run as the nominee of a different political party in the general election (§ 659:91–a).

Offenses (see § 666:1).

Destroying or falsely making nomination papers (§ 655:45).

Wrongful voting (§ 659:34).

Interfering with voters (§ 659:37).

Bribing or intimidating voter (§ 659:40).

Forging ballot (§ 659:38).

Tampering with voting machines (§ 659:42).

Providing liquor to voter (§ 659:39).

Distributing campaign materials at polling place (§ 659:43).

Electioneering by election officer at polling place (§ 659:44).

Assault a town, city or ward officer during performance of election duty (§ 659:41).

Unsigned or unidentified political advertising (§§ 664:14, 664:15, 664:16).

Placing political advertising on public or private property without consent of owner (§ 664:17).

Advertising on government and law enforcement vehicles, prohibited (§ 664:1709a).

Official malfeasance (§§ 666:2, 666:3).

Falsification of endorsements (§ 666:6).

Write-in Provisions.

Permitted in primary (§ 656:23) and in general elections (§ 656:12 and see generally § 659:88).

Vacancy in Office.

If a vacancy occurs, the Governor shall fill the vacancy by temporary appointment until it is filled at the next general election (§ 661:5).

NEW JERSEY

Unless otherwise designated, references are to New Jersey Statutes Annotated and to the 1988–1989 Cumulative Annual Pocket Part.

Primary Elections, when held.

Tuesday after first Monday in June (§ 19:23–40). (June 5, 1990).

Nominating Papers, Petitions, Etc.

Nominating petition and acceptance of nomination, with oath of allegiance annexed (see generally §§ 19:13–7, 19:13–8).

Party candidate for primary.—Signatures of 1,000 voters of his party are required (§§ 19:23–5, 19:23–7, 19:23–8, Supp.). File with Secretary of State April 12, 1990.

New and minor party candidate and independent candidates.—(See § 19:13–4, par. 3; § 19:1–1, definition of "Political Party.") Independent filing deadline would be April 12, 1990.

Signatures equal to two percent of the vote cast for General Assembly members at the last general election are required (§§ 19:13–5, 19:13–8).

File at least fifty-four days before primary, along with certificate of consent of candidate (§§ 19:23–14; 19:23–15; 19:13–8; 19:13–9), with the Secretary of State (§§ 19:13–6; 19:13–3).

Write-in candidate.—Person nominated at primary by write-in votes must file, with Secretary of State, certificate of acceptance with oath of allegiance annexed (§ 19:23–16).

Filing Fees and Assessments.—No statutory provision.

Crossfiling by Candidates.

Prohibited.—Candidate who chooses to seek nomination in primary election is precluded from subsequent attempt at nomination by direct petition. *Riecker* v. *Hartmann,* 130 N.J. Super. 266, 326 A. 2d 101 (1974).

If nominated by more than one political party or group, candidate must choose one (§§ 19:13–8, 19:14–9).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force.—Oath of allegiance by candidates (§§ 19:23–7, 19:23–8, 19:23–15, 19:23–16, 41:1–1, 41:1–3).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 19:34–20, 19:34–25, 19:34–15).

Intimidation of or hindering voter (§§ 19:34–5, 19:34–20, 19:34–29, 19:34–6, 19:34–28, 19:34–38(d)).

Paying or promising to pay money or promising office or employment or anything of value for voter to vote or not to vote (§§ 19:34–25(a), (c); 19:34–39; 19:34–40).

Entertainment to promote an election (§ 19:34–25).

Bribing officers or members of a political nominating meeting (§§ 19:34–25(e); 19:34–40(c)).

Betting on outcome of election (§ 19:34–24).

Advertising or other printed matter without names and addresses of persons paying for printing and distribution and of persons printing, copying or publishing such materials, or, if in newspaper, without being paid for and without being designated "Paid Advertisement" (§ 19:34-25(j)(3); § 19:34-38.1).

Solicitation of funds from candidate by various organizations (§§ 19:34-43, 19:34-44).

Badges, buttons, or other insignia, furnishing of, to be worn at or near polls on an election day (§ 19:34-19).

Paying rent for social club or providing uniforms for organized club (§ 19:34-25(j)(2)).

Election coercion of employees by employer (§§ 19:34-27, 19:34-30).

Contributions by insurance corporations (§ 19:34-32).

Contributions by State, county, or municipal committees of political party in aid of any candidate for nomination (§ 19:34-33).

Providing expenses of boarding or maintaining a person in a domicile in certain election precinct to secure his vote (§ 19:34-38(c)).

Paying or offering to pay for withdrawal of a candidate (§ 19:34-38(e)).

Paying loss for attendance at polls (§ 19:34-38(f)).

Paying to assist person to evade arrest for commission of crime against effective franchise (§ 19:34-39(f)).

Campaign contribution demands by public officeholders of other public officeholders (§ 19:34-42).

Tampering with or willfully injuring records of equipment or interference with conduct of election (§ 19:53A-15).

Impeding the campaign of a candidate while concealing that you are actually acting under instructions of, or on behalf of, another candidate (§ 19:34-65).

Write-in Provisions.

Permitted in primary (§ 19:23-25) and general elections (§§ 19:14-4(4); 19:14-6; 19:15-28; 19:16-3(d)); voting machines (§ 19:48-1(m)); electronic voting systems (§§ 19-53A-3, 19:53A-5)).

Vacancy in Office.

If a vacancy occurs, the Governor shall issue a writ of election to fill the same unless the term of service of the person whose office shall become vacant will expire within six months next after the happening of the vacancy (§ 19:27-4). If the vacancy shall happen within 64 days next preceding the primary prior to the general election, it shall be filled by election at the second succeeding election unless the Governor shall deem it advisable to call a special election therefor (§ 19:27-6, Supp.).

The Governor may make a temporary appointment of a Senator whenever a vacancy shall occur by reason of any cause other than the expiration of the term; and such appointee shall serve as such Senator until a special election or general election shall have been held pursuant to law and the board of state canvassers can deliver to his successor a certificate of election (§ 19:3-26).

NEW MEXICO

Unless otherwise designated, references are to New Mexico Statutes 1978 (1985 Replacement) and the 1988–1989 Cumulative Supplement thereto.

Primary Elections, when held.

First Tuesday in June of each even-numbered year (§ 1–8–11). (June 5, 1990).

Nominations, Papers, Petitions, Etc.

Party candidate for primary

A "major political party" is defined by § 1–1–9 as a party, any of whose candidates received five percent of the total number of votes cast at the last preceding general election for Governor or President.

Declarations of candidacy.—File with Secretary of State between 9:00 a.m. and 5:00 p.m. on first Tuesday of March of each even-numbered year (§§ 1–8–25, 1–8–26). (March 6, 1990)

Nominating petition.—A nominating petition, signed by a number of voters equal to at least three percent of the vote of the candidates party in the state (§ 1–8–33).

Minor parties.

A "minor political party" is defined by § 1–1–9 as a party, none of whose candidates received five percent or more of the total number of votes cast at the last preceding general election for Governor or President. If the minor party rules require nomination by convention, the chairman and the Secretary of the State political convention shall certify to the Secretary of State the name of the party's nominee on the second Tuesday in July before the general election (§ 1–8–2). If the party rules require nomination by a method other than a convention, the State chairman and the governing board of the State party shall certify to the Secretary of State the name of the party's nominee on the second Tuesday in July before the general election (§ 1–8–3). The certification to the Secretary of State of the name of a minor party candidate must be accompanied by a petition signed by not less than one-half of one percent of the total number of votes cast at the last preceding general election for Governor or President (§§ 1–8–2, 1–8–3).

Write-in candidates.

A person desiring to be a write-in candidate on the primary election ballot of the major political party of his registration must file with the Secretary of State a declaration of intent before 5:00 p.m. on the fiftieth day before the primary (§ 1–8–36.1).

Independent candidates.

Nominating petition.—Signed by a number of voters equal to at least three percent of the total number of votes cast in each of at least ten counties in the State and not less than three percent of the total number of votes cast in the state for Governor at the last preceding general election at which a Governor was elected (§ 1–8–51). The voter shall not sign a petition for an independent candidate if he has signed a petition for another independent candidate for the same office or he has signed a petition for a candidate for the same office in the primary election (§ 1–8–51).

Nominating petitions for independent candidates shall be circulated no sooner than January 1 preceding the general election or sooner than the fifty-sixth day preceding any United States representative special election (§ 1-8-52, Supp.).

Such petitions shall be filed with the Secretary of State during the period commencing at 9:00 a.m. on the second Tuesday of July of each even-numbered year and ending at 5:00 p.m. of the same day, and not later than 5:00 p.m. on the fifty-sixth day preceding any United States representative special election (§ 1-8-52, Supp.). Independent filing deadline would be July 10, 1990.

Declaration of candidacy.—Candidate shall swear that he has declined to designate his party affiliation and has not changed his declination subsequent to the date of issuance of the governor's proclamation for the primary election in the year of the general election at which he seeks to be a candidate (§ 1-8-48, Supp.).

Filing Fees and Assessments.—No statutory provision.

Crossfiling by Candidates.

Prohibited.—No person may become a candidate for nomination by a party unless his record or registration shows his affiliation with that party and residence within New Mexico on the date of the Governor's proclamation for the primary (§§ 1-8-18, 1-8-29).

If a person has been a candidate for the nomination of a party in the primary, he shall not have his name printed on the ballot at the general election under any party name except the name of the party designated on his declaration of candidacy filed for the primary (§ 1-8-19).

No person shall be a candidate in the primary for more than one office except that a person may be a candidate for both the expiring term and the next succeeding term for an office when both terms are to be voted upon at the next succeeding general election (§ 1-8-20).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 1-20-11).

Intimidation of or hindering voter (§ 1-20-14); coercion of employees (§ 1-20-13).

Gift or promise of money, employment, or anything of value to a person to vote or not to vote (§ 1-20-11).

Intoxicating liquor, possession on election day within 200 feet of polling place (§ 1-20-21).

Expenditure of political party money to aid person in primary election (§ 1-19-1).

Refusal by employer to allow employee time off to vote (§ 1-12-42).

Bets and wagers on an election are considered gaming (§ 44-5-10).

Electioneering within 100 feet of polling place (§ 1-20-16).

Tampering with ballot box or voting machine (§§ 1-20-4, 1-20-5, 1-20-6).

Obstructing or disturbing the polling place (§§ 1-20-17, 1-20-20).

Failure to disclose sponsor of campaign advertising (§§ 1-19-16, 1-19-17).

False statement in declaration of candidacy or statement of candidacy for convention designation (§ 1-8-40).

Unlawful possession of absentee ballot (§ 1-20-7).

Permitting prisoners to vote (§ 1-20-18).

Write-in Provisions.

Permitted in primary under certain conditions (§ 1-8-36.1).

Permitted in general elections (§ 1-12-19.1); on voting machines (§ 1-12-19.1).

Vacancy in Office.

If a vacancy occurs, the Governor shall make a temporary appointment to fill the vacancy until such time as an election is held to fill the vacancy for the unexpired term.

The election to fill the vacancy for the unexpired term shall be held at the next general election occurring not less than thirty (30) days subsequent to the happening of such vacancy.

If the vacancy occurs within thirty (30) days next preceding a general election, the person appointed by the Governor to fill the vacancy shall hold office until the next general election occurring more than thirty (30) days subsequent to the happening of the vacancy unless the term of office for such Senator shall sooner expire.

Candidates to fill a vacancy in the office of United States Senator for an unexpired term shall be nominated and elected in the same manner as candidates are nominated and elected for the full term (§ 1-15-14).

NEW YORK

Unless otherwise designated, references are to McKinney's Election Law of New York (1978) and to the 1990 Cumulative Annual Pocket Part.

The State of New York will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First Tuesday after second Monday in September (§ 8-100.1). (September 11, 1990).

Nomination for United States Senator is made by party State committee or by the enrolled voters of the party (§ 6-104).

Nominating Papers, Petitions, Etc.

Party candidate.

Certificate of nomination.—State party committee may designate a candidate for U.S. Senate by majority vote at a meeting held not earlier than seven days before the first day to sign designating petitions and not later than the first day to sign designating petitions for the primary election (§ 6-104.6, Supp.).

Each committee member casts number of votes in accordance with ratio which number of votes cast for party's candidate and governor in committee member's assembly district in preceding gubernatorial election bears to total party vote cast for governor in the entire State in that election (§ 6-104.4).

Name of the candidate who has received the designation of the state committee and the office for which designated shall be filed with the State Board of Election within four days after such meeting (§ 6-104.7).

Other party candidates, who received twenty-five percent or more of total vote cast by party State committee on any one balloting, shall also be filed by the committee with the State Board of Elections at the same time (§ 6-104.7). Such persons may be placed on party primary ballot by making written demand to the State Board of Elections not later than 7 days after party state committee meeting (§ 6-104.2).

Petition by enrolled party members may also be used to have candidate's name placed on primary ballot (§ 6-104.5). Petition must be signed by not less than 20,000 or five percent, whichever is less, of enrolled party voters within the state of whom not less than one hundred or five percent, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the State (§ 6-136.1). Petition shall be filed with the State Board of Elections not earlier than the 10th Monday and not later than the 9th Thursday before the primary (§§ 6-144, 6-158.1). (July 12, 1990).

The failure to file such petition within the prescribed time shall be a fatal defect (§ 6-106).

If more than one candidate is designated for the nomination of a party for the office of U.S. Senator, the party nomination shall be made at the primary election (§ 6-160.1).

Independent candidate

Nominating petition.—Signatures of at least 20,000 voters required, of whom at least 100 shall reside in each of one half of the congressional districts of the State (§ 6-142.1). File not earlier than 12 weeks and not later than 11 weeks preceding the general election (§ 6-158(9)) with the State Board of Elections (§ 6-144).

First nominations by new party may be made in such manner as the party rules provide (§ 6-128.1). An independent body becomes a party when its candidate for Governor at the last preceding gubernatorial election polled at least 50,000 votes (§ 1-104.3).

Certificate of acceptance of party nomination.—If nominated by party of which he is not a duly enrolled member, or if nominated by more than one party or independent body, such person shall file a certificate accepting the nomination as a candidate of each such party or independent body other than that of the party with which he is enrolled (§ 6-146.1). File with the State Board of Elections (§ 144) not later than the third day after the 11th Tuesday preceding the general election (§ 6-158.11).

Filing Fees and Assessments.—No statutory provision.

Crossfiling by Candidates.

Candidate must be enrolled member of party at time State party committee files certificate of nomination or when designating petition for primary is filed by party members (§ 6-120.1 and .2). However, the State committee of a party, at a meeting, may by a majority vote of those present authorize the nomination of a person who is not so enrolled (§ 6-120.3). If nominated by party of which he is not a duly enrolled member, a candidate shall file a certificate accepting the nomination as a candidate of such party or independent body other than of the party with which he is enrolled (§ 6-146.1).

Offenses (see § 17-168).

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 17-132, 17-142, 17-148).

Intimidation of or hindering voter (§§ 17-130.3, 17-148, 17-150).

Gift or promise of money, employment, or anything of value to a person to vote or not to vote (§ 17-142).

Solicitation of funds for or from candidate by various organiations and persons (§§ 17-110.3, 17-112).

Use of Federal and State appropriations to promote an election (§ 17-154).

Bribing officers or members of political nominating meeting (§ 17-102.7).

Refusal to permit employees to attend election (§ 17-118).

Election coercion or intimidation of employees by employer (§ 17-150.3).

Corrupt use of position or authority of person holding public office in connection with election (§ 17-158).

Electioneering near polls on election day (§ 17-130.4).

Tampering with voting machines (§ 17-130.17).

Failure to deliver official ballots (§ 17-124).

Forgery of official endorsement of ballot (§ 17-120.4).

Destruction of ballots (§ 17-120.5).

Misconduct in relation to petitions (§ 17-122).

Write-in Provision.

Permitted in primary (§§ 7-104, 9-112) and in general election (§ 7-104); on voting machines (§ 8-308).

Vacancy in Office.

At the general election next preceding the expiration of the term of office of a United States Senator from this state, a United States Senator shall be elected by the people for a full term of six years. Elections to fill a vacancy for an unexpired term shall be held as provided in the public officers law (§ 12-200).

If a vacancy occurs in any even-numbered calendar year on or after the fiftyninth day prior to an annual primary election, the Governor shall make a temporary appointment to fill such vacancy until the third day of January in the year following the next even-numbered calendar year. If such vacancy occurs in any even-numbered calendar year on or before the sixtieth day prior to an annual primary election, the Governor shall make a temporary appointment to fill such vacancy until the third day of January in the next calendar year. If a vacancy occurs in any odd-numbered year, the Governor shall make a temporary appointment to fill such vacancy until the third day of January in the next odd-numbered calendar year. Such an appointment shall be evidenced by a certificate of the Governor which shall be filed in the Office of the State Board of

Elections along with a writ of election (McKinney's Public Officers Law, § 42.4a).

NORTH CAROLINA

Unless otherwise designated, references are to North Carolina General Statutes (1987) and to the 1989 Cumulative Supplement.

Primary Elections, when held.

Tuesday next after the first Monday in May (§ 163-1(b)). (May 8, 1990).

Second Primary (runoff), when held.

In case no candidate receives a majority, or in case of a tie between two candidates or more, a second primary shall be held 4 weeks after the first primary (§ 163-111(e)). (June 5, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Notice of candidacy and pledge not to run as write-in candidate if defeated in the primary.—File with State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February (February 5, 1990) preceding the primary (§ 163-106(c)).

Independent candidate

Nominating petition accompanied by *affidavit of candidate* that he seeks independent nomination and is not affiliated with any political party.—Signatures are required of at least two percent of total number of registered voters in the State. File with State Board of Elections on or before 12:00 noon on the last Friday in June (§ 163-122(a)(1)). (June 29, 1990).

Filing Fees and Assessments (§ 163-107).—Required of candidates in primary.

Amount.—One percent of annual salary.

Date of payment.—time of filing notice of candidacy.

To whom paid.—State Board of Elections.

The petition must be filed with the State Board of Elections not later than 12:00 noon on the first Monday in February (§ 163-107(a)). (February 5, 1990).

Crossfiling by Candidates.

Prohibited. Candidate must be affiliated with party whose nomination he seeks, and must pledge that if defeated in the primary he will not run for any office as a write-in candidate in the next general election (§ 163-106).

No person who has changed his party affiliation or who has changed from unaffiliated status to party affiliation may file as a candidate in the primary of the party to which he has changed unless he has been affiliated with that party for at least three months before the filing date (§ 163-106).

A person registered as unaffiliated shall be ineligible to file as a candidate in a party primary (§ 163-106).

A person whose name appeared on the ballot in a primary election is not eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year (§ 163-122).

Offenses.

Unlawful solicitation of votes, corruptly influencing voters, bribery (§ 163-275(2),(12)).

Intimidation of or hindering voters (§§ 163-273, 163-274(3)).

Signing the name of another person to an election petition vacancy (§ 163-221).

Gift or promise of money or anything of value to a person in return for his vote (§ 163-275(2)).

Betting on outcome of election (§ 163-274(5)).

Advertising and other printed matter containing charge derogatory to any candidate, without signature of party publishing same and responsible for such charge (§ 163-274(7)).

Publication of false statement in relation to any candidate (§ 163-274(8)).

Election coercion or intimidation of employees by employer (§ 163-274(6)) or by State officers (§ 163-271).

Using funds of insurance companies for political purposes (§ 163-270).

Gift or promise of political appointment in return for political support or influence (§ 163-274(9)).

Loitering or electioneering within 50 feet of polling place (§ 163-147).

Misrepresentation about ballot to blind person (§ 163-274(12)).

Write-in Provisions.

Permitted in general election only (§ 163-151).

Candidate must pledge, with his notice of candidacy, that if he is defeated in the primary, he will not run for any office as a write-in candidate (§ 163-106).

Vacancy in Office.

Whenever there shall be a vacancy in the office of United States Senator from this State, whether caused by death, resignation, or otherwise than by expiration of term, the Governor shall appoint to fill the vacancy until an election shall be held to fill the office. The Governor shall issue his writ for the election of a Senator to be held at the time of the first election for members of the United States House of Representatives that is held more than 60 days after the vacancy occurs. The person elected shall hold office for the remainder of the unexpired term. The election shall take effect from the date of the canvassing of the returns (§ 163-12, Supp.).

NORTH DAKOTA

Unless otherwise designated, references are to North Dakota Century Code Annotated, 1981 Replacement Volume, 1987 Pocket Supplement.

Primary Elections, when held.

Second Tuesday in June in general election years (§ 16.1-11-01). (June 12, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Candidate's petition, accompanied by *candidate's affidavit* that he seeks nomination of certain political party.—Signatures of legal voters of his party are required, equal in number to three percent of the total vote cast for candidates of such party for the same position at the last general election, but not more than three hundred signatures. File with Secretary of State, not more than 70 nor less than 60 days before the primary and before 4:00 p.m. of the 60th day (§§ 16.1-11-06, Supp., 16.1-11-10, Supp.). (April 13, 1990).

A certificate of endorsement in lieu of a candidate's petition may be filed as above; such certificate must be signed by the state chairman of a legally recognized political party. The certificate must state the candidate's name, address, the title of the office to which he aspires, and the party he represents (§ 16.1-11-06.1, Supp.)

Independent candidate

Certificate of nomination.—1000 signatures are required of qualified electors residing in the State (§ 16.1-12-02, Supp.). File with the Secretary of State (§ 16.1-12-04, Supp.), not later than 4 p.m. of the 60th day before general election (§ 16.1-12-04, Supp.).

Filing Fees and Assessments.—No statutory provisions.

Crossfiling by Candidates.

Prohibited. Must represent the party whose nomination he seeks (§ 16.1-11-10). If nominated by more than one party, candidate must make a selection (§ 16.1-12-06). A defeated primary candidate is ineligible to have his name printed on the general election ballot as candidate for the same office (§ 16.1-13-06).

Offenses.

Injuring, intimidating, or interfering with another; bribery; otherwise interfering with the conduct of an election (§§ 12.1-14-02, 12.1-14-03).

Paying voter for loss due to attendance at polls (§ 16.1-10-06.1).

Sponsorship of false information in political advertisement (§ 16.1-10-04). Certain political advertisements to disclose name of sponsor (§ 16.1-10-04.1, Supp.)

Political badge, button or insignia, supplying for wearing at or about the polls on election day (§ 16.1-10-03).

Payment to and acceptance of payment by editor or publisher of newspaper or periodical, for editorially advocating or opposing any candidate (§ 16.1-10-05).

Electioneering on election day (§ 16.1-10-06).

Use of state services or property for political purposes (§ 16.1-10-02).

Betting on the outcome of an election (§ 12.1-28-01, 12.1-28-02).

Sale or distribution at polling place (§ 16.1-10-06.2, Supp.).

Write-in Provisions.

Permitted in primary (§ 16.1-11-35); however, no person shall be deemed nominated at any primary election unless the number of votes received by him equals the number of signatures needed on the petition to have a candidate's name printed on the primary ballot (§ 16.1-11-36, § 16.1-13-25).

Permitted in general election (§ 16.1-13-25), on voting machines (§§ 16.1-13-25, 16.1-13-33).

Vacancy in Office.

The Governor, by appointment, may fill a vacancy temporarily, and the person so appointed shall serve only until the vacancy is filled at next statewide election if the vacancy occurs during a calendar year in which a statewide election is scheduled to be held and at least ninety days prior to the general election. If there is not at least a ninety day period between the date of the vacancy and the date of the next statewide election, the vacancy shall be filled at the general election.

The Governor shall issue a writ of election which shall designate a time for holding a special election which shall be held within ninety days of the occurrence of a vacancy if the vacancy occurs during a calendar year in which no statewide election is regularly scheduled or during a calendar year in which such an election is scheduled but less than ninety days prior to the general election. (§ 16.1-13-08).

OHIO

Unless otherwise indicated, references are to the Ohio Revised Code Annotated, (1988 Replacement Volume) and to the 1988 Supplement.

The State of Ohio will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

First Tuesday after first Monday in May of each general election year (§ 3513.01). (May 8, 1990).

Nominating Papers, Petitions, Etc.

Party candidates for primary

Declaration of candidacy and petition (§§ 3513.05, 3513.07).—Signatures required of at least 1,000 qualified voters of his party. File with Secretary of State, not later than 4 p.m. of the 75th day before primary. (February 22, 1990).

Independent candidates

Nominating petition and statement of candidacy.—Must have between 5,000 and 15,000 signatures. File with Secretary of State not later than 4 p.m. of the 75th day before the general election (§§ 3513.261, 3513.257). (August 23, 1990).

Filing Fees and Assessments (§§ 3513.261, 3513.10).

By all candidates, including independent and write-in candidates.

Amount.—One-half of one percent of annual salary of office but not more than $50.

Date of payment.—At time of filing nominating papers or declaration of intent to be a write-in candidate.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited.—Candidate required to support party (§ 3513.07). No person shall be ineligible for nomination or election at a party primary if he voted in the primary of a different party within the current year and the next preceding two calendar years (§ 3513.191, Supp.). Person who seeks party nomination in primary by declaration of candidacy shall not be permitted to become a candidate at the following general election for any office by nominating petition or by write-in (§ 3513.04).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force.—Parties or groups engaged in un-American activities are barred from the ballot (§ 3517.07). Where the state legislature made extensive revisions in Ohio election laws after a political party brought suit challenging such laws, so that all issues became moot except one (whether the requirement of filing a loyalty oath was constitutional), a federal court will not exercise jurisdiction in view of the abstract and speculative posture of the case. *Socialist Labor Party* v. *Gilligan,* 34 O Misc-18, 292 N.E. 2d 336 (1972).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 3599.25, 3599.38, 3599.01).

Intimidation of or hindering voter (§§ 3599.01, 3599.30).

Gift or promise of money, employment, or anything of value to a person to vote or not to vote (§ 3599.01).

Political communications, written, printed, or delivered over radio or television, without names and addresses of persons or of officers or organization issuing and responsible for same (§ 3599.09).

Purposely making certain false statements about a candidate by means of campaign materials (§ 3599.091).

Placing a person to serve in election campaign organization of a candidate to impede campaign or to report information to person's employer (§ 3599.091).

Paying employee of candidate to improperly discharge duties or to obtain information (§ 3599.091).

Receipt of compensation by owner or employee of newspaper or other publication to influence votes except through matter identified as "paid advertisement" (§ 3599.08).

Bribing or intimidating delegates to conventions (§ 3599.01).

Election coercion of employees by employer (§ 3599.05).

Failure of employer to allow employee time off to vote and interference by employer in exercise of elective franchise by employees (§ 3599.06).

Write-in Provisions.

Permitted in primary (§§ 3513.14, 3513.23) and in general election; but write-in votes shall not be counted for any candidate who has not filed a declaration of intent to be a write-in candidate. File such declaration with Secretary of State before 4 p.m. of the 40th day preceding the election (§ 3513.041).

Statutes provide for write-ins on voting machines—(§ 3507.05(B)), and on punch card voting systems—(§ 3506.06(B)).

Candidate defeated in primary may not become a candidate in the ensuing general election by write-in (§ 3513.04).

Vacancy in Office.

If a vacancy occurs, the Governor shall make a temporary appointment of some suitable person having the necessary qualifications for Senator. Such appointee shall hold office until the 15th of December next succeeding the next regular state election which occurs more than 180 days after such vacancy happens. At such next regular state election a special election to fill such vacancy shall be held. However, when the unexpired term ends within one year immediately following the date of such regular state election, the appointment shall be for the unexpired term (§ 3521.02).

OKLAHOMA

Unless otherwise indicated, references are to Oklahoma Statutes Annotated Title 26 and to the 1990 Cumulative Annual Pocket Part.

Primary Elections, when held.

Fourth Tuesday in August in even-numbered years (§ 1-102). (August 28, 1990).

Second (Runoff) Primary, when held.

If no candidate receives a majority of the votes cast, a second (runoff) primary shall be held on the third Tuesday in September (§ 1-103). (September 18, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—File with Secretary of the State Election Board during period beginning the first Monday after July 4 and remaining open until 5:00 p.m. on the next succeeding Wednesday (§§ 5-102, 5-110, 5-111). (July 11, 1990).

Petition supporting candidate's filing.—A declaration of candidacy must be accompanied by a petition supporting a candidate's filing signed by 5 percent of the registered voters eligible to vote for a candidate in the first election wherein the candidate's name could appear on the ballot, as reflected by the latest January 15 registration report, or by a cashier's check or certified check in the amount of $1,000 for candidates filing with the Secretary of the State Election Board (§ 5-112).

New party candidates

Only candidates of "recognized political parties," i.e., those appearing on the general election ballot or those which are formed according to law may file for party nomination (§§ 5-104, 1-107). A recognized party may be formed at any time, except between July 1 and November 15 of an even-numbered year, by filing a notice intent with the Secretary of the State Election Board, thereafter filing petitions signed by registered voters equal to five percent of the total votes cast in the last General Election either for Governor or for electors for President and Vice President. The notice of intent may not be filed between March 1 and November 15 of an even-numbered year (§ 1-108 Supp.).

Filing Fees and Assessments (§ 5-112).

May be paid by party candidates for primary in lieu of a petition signed by 5 percent of voters registered and eligible to vote for such candidate in the first election wherein the candidate's name could appear on the ballot.

Amount.—$1,000.

Date of payment.—When filing declaration.

To whom paid.—Secretary of State Election Board.

If a candidate is unopposed in the primary, becomes a candidate in the runoff primary, or receives more than fifteen percent of the votes cast for the office for which he is a candidate at the first election wherein his name appears on the ballot, the filing fee shall be immediately returned to the candidate (§ 5-113).

Crossfiling by Candidates.

To file as a candidate for nomination of a party, a person must be registered voter of the party (§ 5-105, Supp.). May file for no more than one office at any election (§ 5-106).

Subversive Parties and Individuals Barred from Ballot.

No provisions.

Offenses.

Illegal voting (§ 16-102).

False swearing (§ 16-103).

False notarization on absentee ballot (§ 16-104).

Election fraud, bribery, coercion (§§ 16-105, 106, 107, 108, 109).

Electioneering near polling place (§ 16-111).

Taking intoxicating liquors within one-half mile of polling place on election day (§ 16-112).

Interference with voter or conduct of election (§ 16-113).

Failure of election official to perform duty (§ 16-114).

Disclosure of voter as to how he voted, or by election official of how any voter may have voted (§§ 16-115, 116).

Disclosure of count (§ 16-117).

Removing ballot from polling place; carrying ballot into polling place (§ 16-118).

Illegally printing or possessing ballots (§ 16-120).

False application for absentee ballot (§ 16-121).

Anonymous campaign literature (§ 15-111).

Candidates may not adopt name of incumbent or of person of state or national reputation (§§ 5-108, 5-109).

Person may not become a candidate for any office if his name is identical to the incumbent or a publicly announced candidate for such office when it appears the identity or similarity of names is used for the purpose of confusing voters (§ 5-107).

Betting on the outcome of an election (Title 21, § 181).

Illegal acts relating to voting machines (§§ 9-117, 9-118).

Advertising on, and influencing content of educational television (Title 70, § 23-102).

Write-in Provisions.

Ballot specifications for general elections do not include a specific provision for write-in votes, but there must be a line following the name of a candidate and the name of the next office in order down the column (§ 6-106).

However, the law requires that voting machines, whether used in general or primary elections, must permit a voter to vote for a person whether or not nominated as a candidate by any party or organization (§ 9-104).

Vacancy in Office.

Whenever a vacancy shall occur in the office of a member of the Senate from Oklahoma, such vacancy shall be filled at a special election to be called by the Governor within thirty days after occurrence of the vacancy. No special election shall be called if the vacancy occurs after March 1 of any even-numbered year if the term of the office expires the following year.

In this case the candidate elected to the office at the regular General Election shall be appointed by the Governor to fill the unexpired term (§ 12-101). The proclamation must contain certain specified facts (§ 12-103).

OREGON

Unless otherwise designated, references are to the Oregon Revised Statutes, 1986 and to the 1988 and 1989 Supplements.

Primary Elections, when held.

Third Tuesday in May of each even-numbered year (§ 254.056(2)). (May 15, 1990).

Nominating Papers, Petitions, Etc.

Candidate's petition for nomination.—Signatures of registered party voters are required, equal in number to two percent of the party vote cast at last general election for presidential electors, or at least one thousand, whichever is less. Included in this number shall be the signatures of voters in each of at least one-tenth of the precincts in each of at least seven counties (§ 249.068). A nominating petition shall be filed not sooner than the 250th day and not later than the 70th day before the date of the primary election (§ 249.037). File with Secretary of State (§ 249.035). (No later than March 6, 1990).

Declaration of candidacy.

In lieu of petition for nomination with required number of signatures, a person can have his name printed as a candidate on his party's primary ballot by filing a declaration of candidacy and paying required filing fee (§ 249.020). *File* with Secretary of State (§ 249.035) not before the 250th day and not later than the 70th day before the primary election (§ 249.037). (No later than March 6, 1990).

Candidates of minor and new political parties, and independent candidates (§ 249.705).

Certificate of nomination.—Certificate shall (1) for minor party, state that the political party nominating this candidate polled at least five percent of the entire State vote for all candidates for Representative in Congress at last general election (§ 249.732(2)), or (2) for new party, be accompanied by a petition signed by registered voters equal in number to such five percent of the State vote for Representative in Congress (§ 249.732(1)), or (3) for organized group, state that not less than 1,000 bona fide voters of the State were present at a public meeting at which this nomination was made (§ 249.735), or (4) for an independent, be signed by voters equal in number to not less than three percent of the State vote last cast for presidential electors (§ 249.740).

File certificate of nomination, accompanied by candidate's *acceptance of nomination,* with Secretary of State, not earlier than fifteen days after the primary and not later than seventy days before the general election (§§ 249.712, 249.720, 249.722). (August 28, 1990).

New party, independent candidate.—If nomination is made by a convention or assembly, copy of the minutes of the meeting must accompany certificate of nomination (§§ 249.720, 249.735).

Signed copy of petition of new party, and of certification of nomination of independent, must be filed by chief sponsor with Secretary of State before being circulated (§§ 249.732(1), 249.740(3)).

Filing Fees and Assessments (required only of candidates who file a declaration of candidacy) (§§ 249.056, 249.020).

Amount.—$150.

Date of payment.—At time of filing declaration of candidacy.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited. Candidate must declare that, if he is defeated in primary, he will not accept the nomination or endorsement of any party other than the one in which he is registered at time of filing for nomination (§ 249.031(g)).

Candidate must have been member of party whose nomination he seeks for at least 180 days next preceding date on which he filed (§§ 249.031, 249.046). Unsuccessful candidate in primary shall not be a candidate of any other political party or become an independent candidate at the ensuing election (§ 249.048).

As to candidates not nominated at primary elections, the acceptance of the nominee shall either accompany the certificate of nomination or it must be filed after the certificate is filed but before the time for filing nominations for the office has expired (§ 249.712). Independent candidates and candidates nominated by an assembly of electors must state in their certificates of nomination that they were not affiliated with any political party for at least one hundred and eighty days prior to the filing of their petitions or certificates of nomination (§ 249.720(e)).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force.—§ 236.030.

Offenses.

Undue influence to affect registration, voting, candidacy; solicitation of money or other benefits (§ 260.665).

Accepting employment when compensation will be donated to candidate or committee (§ 260.422).

Solicitation of public employees (§ 260.432).

Transfer of convention credentials for value (§ 260.625).

Payments for becoming or refraining from becoming a candidate (§ 260.665).

Payments for putting names on nomination papers or for the performance of political committee duties (§ 260.655).

Betting on election results (§ 260.635).

Obtaining ballot under false name; voting more than once (§ 260.715).

Purchase of advertising or payment for editorial advocacy or opposition (§ 260.605).

Identification of source of political publications required (§ 260.522).

False publications relating to candidates or measures (§ 260.532).

Misleading statements by candidates regarding prior public service (§ 260.542).

False oaths or affidavits (§ 260.715).

Registering under false name, etc. (§§ 247.121, 247.991).

Releasing precinct votes before State polls have been closed (§ 260.705).

Tampering with voting machine or vote tally system (§§ 260.645, 260.715).

Write-in Provisions.

Permitted in primary and general elections and on voting machines (§ 254.145).

Vacancy in Office.

Under Article V, Section 16 of the Constitution of Oregon, if a vacancy occurs in the office of United States Senator, the vacancy shall be filled at the next general election provided such vacancy occur more than 20 days prior to such general election.

PENNSYLVANIA

Unless otherwise designated, references are to title 25 of Purdon's Pennsylvania Statutes Annotated and to the 1989-1990 Cumulative Annual Pocket Part.

The State of Pennsylvania will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Third Tuesday in May in even-numbered years, except in presidential election years, when it shall be held on the 4th Tuesday in April (§ 2753, § 2862). (May 15, 1990).

Nominating Papers, Petitions, Etc.

Party candidates for primary

Candidates for nomination for the United States Senate shall present a nomination petition containing two thousand signatures of registered and enrolled party members. File with Secretary of the Commonwealth (§ 2873(a)), on or before the 10th Tuesday prior to the primary (§ 2873(d)). (March 6, 1990).

Candidates of political bodies which do not qualify as political parties (§ 2831(c)).

Nomination papers signed by qualified electors of the State are to be filed with the Secretary of the Commonwealth. (§ 2911(a), (c), (d), (e)). Signatures are required equal in number to two percent of largest entire vote cast for any elected candidates in the State at large in last preceding election (§ 2911(b)). The nomination papers are to be filed with the Secretary of the Commonwealth on or before the second Friday subsequent to primary (§ 2913(c)).

Loyalty affidavits. (Title 65, § 224).

All candidates must file with nomination petition, nomination paper, or nomination certificate a statement under oath or affirmation that he is not a subversive person.

Write-in candidate nominated at a primary must file affidavit within sixty days after primary.

Write-in candidate elected in general election must file affidavit prior to being sworn into the office to which he is elected.

Filing Fees and Assessments.

Amount.—Party candidates, $200 (§ 2873(b)(1)); candidates of political bodies, $50 (§ 2914).

Date of payments.—At time of filing nomination petitions (§ 2873(b)) or nomination papers (§ 2914).

To whom paid.—Secretary of Commonwealth (§§ 2873(a), 2913(a)).

Crossfiling by Candidates.

Prohibited. Person may not be candidate of more than one party (§ 2911(e)(5)).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force.—(§ 2831(d)).

Offenses.

Unlawful solicitations of votes, corruptly influencing voter, bribery (§§ 3051, 3539, 3551).

Intimidation of or hindering voter (§§ 3527, 3547).

Gift or promise of money, employment, appointment, or anything of value to a person to vote or not to vote (§ 3539).

Election coercion of employees by employer (§ 3547).

False application for absentee ballot, or illegal voting thereof (§ 3553).

Write-in Provisions.

Permitted in primary (§ 2962), and in general election (§ 2963(a)); electronic voting system (§ 3031.12(3)).

Vacancy in Office.

If a vacancy occurs, it shall be filled for the unexpired term by the vote of the electors of the State at a special election held at the next general or municipal election, occurring at least ninety (90) days after the happening of such vacancy.

Candidates shall be nominated by political parties in accordance with party rules and by means of nomination certificates. Until such time as the vacancy shall be filled by an election, the Governor may make a temporary appointment to fill the vacancy (§ 2776, Supp.).

RHODE ISLAND

Unless otherwise specified, references are to the General Laws of Rhode Island, 1988 Reenactment and to the 1980 Pocket Supplement.

Primary Elections, when held.

Second Tuesday after first Monday in September of 1962 and in each even-numbered year thereafter (§ 17-15-1). (September 11, 1990). When any primary falls on a religious holiday such primary shall be held on the next business day following, other than Saturday (§ 17-15-2).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy.—During the last three consecutive Mondays, Tuesdays, and Wednesdays in June preceding the primary. The declaration of candidacy must be filed not later than 4 p.m. on the filing deadline with the Secretary of State (§ 17-14-1, Supp.). (Filing deadline, June 27, 1990).

Nomination papers.—Upon receipt of declaration of candidacy, Secretary of State shall prepare nomination papers for each person who has filed a declaration of candidacy. (17-14-4, Supp.).

Signatures are required of at least 1000 voters (§ 17-14-7). Submit nomination papers for verification on the 60th day before primary to local board of elections of city or town where signers vote (§ 17-14-11).

State party committee may endorse a candidate for the United States Senate by filing notification of same with Secretary of State by 4 p.m. on the day after the final day for filing declarations of candidacy. (§ 17-12-4). Candidates for nomination endorsed by party committee shall be combined on the same nomination papers (§ 17-14-4, Supp.).

Certificate of signatures.—Local board shall certify number of names and qualifications of signers "and shall file all nomination papers for State officers forthwith with Secretary of State" (§ 17-14-11). Nomination papers shall be filed with Secretary of State not later than sixty days before primary (§ 17-14-12).

Independent candidate on final nomination papers

Declaration of candidacy.—The declaration of candidacy must be filed during the last three consecutive Mondays, Tuesdays, and Wednesdays in June. It must be filed not later than 4 p.m. on the last day for such filing with Secretary of State (§ 17-14-1, Supp.). (Filing deadline, June 27, 1990).

Nomination papers.—Upon receipt of declaration, Secretary of State shall prepare nomination papers for each candidate who has filed a declaration of candidacy and shall furnish nomination papers to candidate (§§ 17-14-4, Supp.). Signatures of at least one thousand voters are required for the nomination papers (§ 17-14-7).

Filing Fees and Assessments.—No statutory provisions.

Crossfiling by Candidates.

Candidate in party primary must be qualified voter in primary (§ 17-14-2). No person shall be entitled to vote in the primary election of any political party who has voted in a primary election as a member of any other political party and has not changed his party designation as provided in chapter 9 of title 17 or has designated his affiliation with any other political party, as set forth in chapter 9 of title 17. No person shall be debarred from voting in a party primary solely because of his signing of nomination papers of a candidate to be voted for at any primary. But a person having designated his party affiliation as set forth in chapter 9 of title 17 shall be deemed to have taken part in the primary as a member of such political party and shall be debarred from voting in the primary as a member of the opposite political primary until he has changed his party affiliation (§ 17-15-24). No candidate for any public office shall be permitted to have his name appear in more than one place on the ballot for the same office (§ 17-19-50).

Subversive Parties Barred From Ballot.—No statutory provisions.

Offenses.

Violations with specific reference to primary elections (§ 17-15-42).

Bribery or intimidation of voters (§ 17-23-5).

Making or filing nomination papers with the knowledge that they are false (§ 17-23-9).

Advertising of printed matter tending to injure or defeat any candidate for nomination or election, without name or address of voter responsible for same or without names of two officers of organization issuing same, and if inserted in newspaper or periodical, with designation of same as advertisement (§ 17-23-1; 17-23-2).

Election coercion or intimidation of employees by employer (§ 17-23-6).

Use by club, society, or association of designation indicating its affiliation with a political party without written consent of such party (§ 17-23-7).

Violations as to nomination papers (§ 17-23-9).

Use by any person on circular, etc., of chosen emblem of a political party without consent of the party (§ 17-23-9).

Political activity by classified civil service employees during working hours (§ 36-4-52).

Solicitation of political contributions by or from classified civil service employees (§ 36-4-53).

Promise of influence by candidate to obtain appointment or promotion in classified service in return for vote (§ 36-4-54).

Political literature, influence, and surveying of voter opinion within fifty feet of polling place (§§ 17-19-49, 17-23-15).

Violations as to voting machines (§§ 17-19-42, 17-19-44, 17-19-46, 17-19-47).

Write-in Provisions.

Permitted in general elections (§ 17-19-31).

Vacancy in Office.

If a vacancy occurs, it shall be filed at the next general election next after the expiration of seventy days from the date of such vacancy. In case of such vacancy, the Governor shall make a temporary appointment of a person, pending the results of such an election (§ 17-4-9).

SOUTH CAROLINA

Unless otherwise designated, references are to the Code of Laws of South Carolina 1976 and to the 1988 Cumulative Supplement.

Primary Elections, when held.

Second Tuesday in June in general election years (§ 7-13-40, Supp.). (June 12, 1990).

If no candidate receives a majority in the first primary, a second shall be held and, if necessary, a third, each two weeks successively thereafter (§ 7-13-40, Supp., § 7-13-50, Supp.). (June 26, 1990 and July 10, 1990).

State Convention.

Candidates for U.S. Senator may also be nominated by convention (§§ 7-11-10, Supp., 7-11-30, Supp.).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Notice of candidacy and pledge to support party candidates. File with treasurer of State committee of his political party by 12 o'clock noon on April 30 (§ 7-11-210).

Party candidate nominated by convention (§ 7-11-70, Supp.).

Use of convention method must be approved by a three-fourths vote of the total membership of such convention (§ 7-11-30, Supp.).

Independent candidate (§ 7-11-70, Supp.).

Nominating petition.—Signatures of at least five percent of qualified registered electors in the State, but not more than 10,000. Certified to State Election Commission (§ 7-11-70, Supp.).

Nominees by petition.—Any nominee by petition for one or more of the offices, national, state, circuit, multicounty district or county, to be voted on in the general election must be placed upon the appropriate ballot by the officer, commissioners, or other authority charged by law with preparing the ballot if the petition is submitted to the officer, commissioner, or other authority, as the case may be, for general elections held under § 7-13-10, not later than twelve o'clock noon on August first, or if August first falls on Sunday, not later than twelve o'clock noon on the following Monday (§ 7-13-351, Supp.).

Certified for ballot.—Nominees in a party primary or party convention to be voted on in general election are to be placed on ballot if names of nominees are certified by party official, in case of a party candidate to officer charged by law with preparing ballot, not later than 12 o'clock noon on September 1st (§ 7-13-350, Supp.).

Filing Fees and Assessments (for primary candidates)—(§ 7-11-410).

Amount.—To be fixed by State committee of political party.

Date of payment.—Time of filing notice of candidacy.

To whom paid.—Treasurer of State committee of political party.

Crossfiling by Candidates.

Prohibited. Candidate must pledge to support all party candidates nominated in primary. If a person defeated as a candidate for nomination in the primary campaign is a candidate against his party's nominee, party officials should institute court action for reinjunction (§ 7-11-210, Supp.).

Subversive Parties Barred from Ballot.

No statutory provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 7-25-50, 7-25-60, 7-25-190).

Intimidation of or hindering voter (§§ 7-25-70, 7-25-80, 7-25-190).

Promise of money, or anything of value to a person to vote for or against certain candidate (§ 7-25-50).

Sale of intoxicating liquor on election day (§ 61-13-380).

Tampering with voting machine (§ 7-13-1920).

Possession of voting machine key by unauthorized person (§ 7-13-1910).

Distribution of campaign literature within 200 feet of polling place (§ 7-25-180).

Write-in Provisions.

Permitted in general election (§§ 17-13-380, 7-13-360); on voting machines (§ 7-13-1850).

Write-in in general election must be in voter's handwriting (§ 7-13-800).

Vacancy in Office.

If a vacancy occurs, the Governor may fill such vacancy by appointment for the period of time intervening between the date of such appointment and January third following the next succeeding general election. But, if such vacancy occurs less than one hundred days prior to any general election, the appointment shall be for the period of time intervening between the date of such appointment and January third following the second general election next succeeding (§ 7-19-20).

SOUTH DAKOTA

Unless otherwise indicated, references are to the South Dakota Codified Laws 1982 revision and to the 1989 Pocket Supplement.

Primary Elections, when held.

First Tuesday in June in even-numbered years (§ 12-2-1). (June 5, 1990).

If no candidate receives 35 percent of the votes of his party, a secondary election is held two weeks from the date of the first primary (§ 12-6-51.1 Supp.). (June 19, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Nominating petition.—Signatures are required of not less than one percent of the number of voters who cast their votes for that party's candidate for Governor at the last general election. File with Secretary of State between 8 a.m. on January 20th and 5 p.m. on the first Tuesday of April prior to the primary (§§ 12-6-4, Supp. 12-6-7). (Last day for filing will be April 3, 1990).

Independent candidate

Certificate of nomination.—Signatures are required of not less than one percent of total State vote cast for Governor at the last general election (§ 12-7-1). File with Secretary of State between 8 a.m. on May 1st and 5 p.m. on the first Tuesday in August. (August 30, 1990). Certificate of nomination may not be circulated before January 1st of the year of the election. Certificate is to specify any political party with which the candidate is associated, or that he is an independent (§§ 12-7-1, 12-7-1.1).

Filing Fees and Assessments.—No statutory provision.

Crossfiling by Candidates.

No person may be a candidate for nomination to more than one public office (§§ 12-6-3, 12-7-5).

Subversive Parties Barred from Ballot.

No statutory provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery at primary or other election (§§ 12-26-12, 12-26-15, 12-26-27; § 12-26-17).

Promising to grant or threatening to withhold public relief to influence voting (§ 12-26-14).

Payment for electioneering near polls on election day (§ 12-18-3).

Hindering electors from attending public meetings (§ 12-26-11).

Intimidation of or hindering voter (§§ 12-26-10, 12-26-12).

Advertising and other printed matter without name or address of author and printer (§ 12-25-4.1).

Tampering with ballots or ballot box (§ 12-26-23).

Refusal of employer to allow employee time off to vote in general election (§ 12-3-5).

Deduction of salary for such attendance at polls or at primary (§ 12-26-13).

Election coercion or intimidation of employees by employer (§ 12-26-13).

Betting with voter or election with intent to procure challenge of voter (§ 12-26-19).

Write-in Provisions.

No statutory provisions.

Vacancy in Office.

If a vacancy occurs, it is the duty of the Governor within 10 days of the occurrence to issue a proclamation setting the date of and calling for a special election to fill the vacancy. If either a primary or general election is to be held within six months, an election to fill a vacancy in the office of representative in the United States Congress shall be held in conjunction with that election; otherwise, the election shall be held not less than eighty nor more than ninety days after the vacancy occurs (§ 12-11-1). The Governor may fill by temporary appointment, until a special election is held, vacancies in the office of U.S. Senator (§ 12-11-4).

TENNESSEE

Unless otherwise designated, references are to the Tennessee Code Annotated, 1985 Replacement volume and to the 1989 Supplement.

Primary Elections, when held.

First Thursday in August in even-numbered years (§§ 2-13-202, 2-1-104(23)). (August 2, 1990).

Nominating Papers, Petitions, etc.

Signatures of at least 25 qualified electors of the party are required. File original with State Election Commission and certified duplicates with the coordinator of elections and with the chairman of the party's State executive committee, not later than 12:00 noon on the first Thursday in the second calendar month before the primary election (§§ 2-5-101, Supp., 2-5-103). (June 7, 1990).

Independent candidates

File petition, as above, no duplicate need be filed with a party executive committee (§§ 2-5-101, Supp., 2-5-103). Nominating petitions are to be filed by 12 noon on the first Thursday in the calendar month before the primary election.

Filing Fees.

No statutory provisions.

Crossfiling by Candidate.

No person may qualify as a candidate in a primary election with more than one party in which he seeks the same office. It is also unlawful for any person to qualify as an independent candidate and as a primary candidate for the same office in the same year. No person defeated in an August primary election may qualify as an independent for the same office in the November general elections. No candidate in a party primary election may appear on the ballot in a general election as the nominee of a different political party or as an independent (§ 2-5-101(f), Supp.).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force (§ 2-1-114).

Offenses.

Breaking up of nominating meeting or election (§ 2-19-101).

Misconduct in performance of official duties or inducing another to misbehave (§§ 2-19-102 to 2-19-106).

Illegal registration or voting (§ 2-19-107).

Voting in primary election of more than one party on the same day (§ 2-19-107).

Unlawful possession of official registration or election supplies (§ 2-19-108).

False entries on official registration or election documents (§ 2-19-109).

Abuse of voter assistance (§ 2-19-110).

Unlawful examination, removal, rejection, or destruction of marked ballots (§ 2-19-111).

Misconduct by election officials (§§ 2-19-112 to 2-19-114).

Violence and intimidation to prevent voting (§ 2-19-115).

Misrepresentations as to campaign literature or sample ballots (§ 2-19-116).

Procuring illegal vote (§ 2-19-117).

Tampering with or mutilating voting machine (§ 2-19-118).

Failure to identify political advertisements (§ 2-19-120, Supp.).

Candidate bargaining for support (§ 2-19-121).

Demanding candidate to make promise (§ 2-19-122).

Bribing voters or election officials; voter accepting bribe (§§ 2-19-126, 2-19-127, Supp.).

Betting on elections (§§ 2-19-129 to 2-19-131).

Coercing or directing employees to vote for measure, party, or person (§ 2-19-134).

Exhibiting placards or otherwise threatening that work will cease or be lessened as a result of election (§ 2-19-135).

Certain political activities by state employees; deprivation or threats to deprive person of employment; political activity interfering with state business, etc. (§§ 2-19-202 to 2-19-208).

Display or distribution of campaign materials in polling place, or within 100 feet thereof (§§ 2-7-111, 2-19-119).

Knowingly publish false campaign literature (§ 2-19-142).

Failure to give employee time off to vote (§ 2-1-106).

Write-in Provisions.

Permitted in all elections using paper ballots (§§ 2-7-114, 2-5-207, Supp.), when using a voting machine a paper ballot should be requested (§ 2-7-117, Supp.). In order for any person to receive a party nomination by write-in ballots, he must receive at least five percent of the total number of votes cast in the primary on election day unless there are candidates for the office involved listed on the official ballot (§ 2-8-113).

Vacancy in Office.

If a vacancy occurs in the office of United States Senator, a successor shall be elected at the next regular November election and shall hold office until the term for which his predecessor was elected expires. If the vacancy will deprive the State of its full representation at any time Congress may be in session, the governor shall fill the vacancy by appointment until a successor is elected at the next regular November election and is qualified (§ 2-16-101).

TEXAS

Unless otherwise indicated, references are to Vernon's Texas Codes Annotated (Election Code) and to the 1989-1990 Cumulative Annual Pocket Part.

Primary Elections, when held.

Second Tuesday in March in even-numbered years (March 13, 1990) (§ 41.007(a)).

Second Primary (runoff), when held.

The runoff primary election date is the second Tuesday in April following the general primary election (April 10, 1990) (§ 41.007(b)).

Nominating Papers, Petitions, Etc.

Party candidate for primary.—Parties which received over 20 percent of the vote for Governor at the last election (§ 172.001). To be entitled to a place on the general primary election ballot, a candidate must make an application for a place on the ballot. An application must, in addition to complying with Section 141.031 (general requirements for application), be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that satisfies the requirements prescribed by Section 141.062 (validity of petition) (§ 172.021). The filing fee for a candidate for nomination in the general primary election for United States senator is $ 4,000 (§ 172.024, Supp.).

An application must be filed with the state chairman of a political party for an office filed by votes of more than one county (§ 172.022). An application for a place on the general primary election ballot must be filed not later than 6 p.m. on January 2 of the primary election year unless the filing deadline is extended (§ 172.023, Supp.) (filing deadline, January 2, 1990).

Petition signatures required.—The minimum number of signatures that must appear on a petition for a statewide office is 5,000 (§ 172.025, Supp.). Not later than the 57th day before the general primary election day, the state chairman shall deliver the certification to the county chairman in each county in which the candidate's name is to appear on the ballot (§ 172.028(b), Supp.).

Independent candidates.—Independent candidates must file an application for a place on the general election ballot with the secretary of state accompanied by a petition not later than 5 p.m. of the 30th day after the runoff primary (§§ 142.004–142.006). The petition for a statewide office must include signatures equal to one percent of the total vote received by all candidates for governor at the most recent gubernatorial election (§ 142.007).

Minor party nomination.—To be entitled to have the names of its nominees placed on the general election ballot, a political party required to make nominations by convention must file with the secretary of state, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election. The lists must include each participant's residence address and voter registration number. A political party that has qualified to have the names of its nominees placed on the ballot and that had a nominee for a statewide office who received a number of votes equal to at least five percent of the total number of votes received by all candidates for that office is entitled to have the names of its nominees placed on the ballot in the subsequent general election (§ 181.005). An application for nomination by convention must be filed with the state chairman not later than 5 p.m. on January 2 preceding the convention (§ 181.033(a), Supp.). A political party nominating by convention must make its nomination for statewide offices at a state convention held on the second Saturday in June (§ 181.061).

Filing Fees and Assessments.

Amount.—$4,000.

Date of payment.—The time of filing an application for a place on the general primary ballot (§ 172.021).

To whom paid.—State chairman of state executive committee of a political party (§ 172.022).

Crossfiling by Candidates.

Prohibited.—Candidate required to be affiliated with party whose nomination he seeks (§ 172.027).

Subversive Parties Barred From Ballot.

Candidate must take an oath to support and defend the constitutions and the laws of the United States and the State of Texas (§ 141.031(k), Supp.).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, instigating illegal voting, procuring an illegal vote bribery (§ 61.008).

Intimidation of or hindering voter (Penal Code, Art. 36.03).

Offering or conferring pecuniary benefits on voter for his exercise of discretion (Penal Code, Art. 36.02).

Betting on outcome of election (Penal Code, Art 47.02).

Unlawfully influencing voter (§ 61.008).

Electioneering or loitering near polling place (§ 61.003).

Unlawful operation of sound truck (§ 61.004).

Unauthorized posting of signs (§ 62.013).

Unlawfully accepting or refusing to accept voter (§ 63.012).

Illegal voting (§ 64.012).

Illegal voting assistance (§ 64.036).

Write-in Provisions.

Voting systems must permit write-in voting (§ 122.001, Supp.). Write-in voting is not permitted in primary elections (§ 172.112).

Vacancy in Office.

The governor shall appoint a person to fill a vacancy in office if the vacancy exists or will exist when congress is in session. The appointee serves until a successor has been elected and has qualified (§ 204.002). If a vacancy occurs on or after January 1 of an even-numbered year and on or before the 62nd day before general primary election day, the remainder of the unexpired term shall be filled at the next general election for state and county officers (§ 204.003. Supp.).

UTAH

Unless otherwise designated, references are to Utah Code Annotated, 1976 Replacement Volume 3A and to the 1989 Cumulative Supplement.

The State of Utah will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held (§§ 20-3-4, 20-3-37).

Second Tuesday in September (§ 20-3-8). (September 11, 1990).

Party Primary Convention.

During the month of June of even-numbered years, the State convention of each party shall meet in a State primary convention and elect nominees to run on the party ticket at the primary election (§ 20-4-3, Supp.).

Nominating Papers, Petitions, Etc.

Party candidate for primary convention

Declaration of candidacy.—File with Lieutenant Governor between March 15 and April 15 before primary convention (The filing deadline in 1990 is April 16, 1990 since April 15th falls on a Sunday.) (§ 20-4-9, Supp.).

Independent candidates (§ 20-3-38, Supp.).

Certificate of nominations.—Signatures of 300 legal voters are required. File with Lieutenant Governor between March 15 and April 15. (§§ 20-3-38, Supp., 20-4-9, Supp.). Independent filing deadlines would be April 16, 1990.

Filing Fees and Assessments.

For party primary convention candidates (§ 20-3-14).

Amount.—One-eighth of one percent of total salary for full term.

Date of payment.—When filing nomination paper or acceptance.

To whom paid.—Lieutenant Governor.

Crossfiling by Candidates.

Prohibited.—Candidate must declare that he will support his party throughout his term if elected (§ 20-4-9, Supp.).

No candidate may file as an independent who has previously filed in the same year a declaration of candidacy with any political party (§ 20-3-38, Supp.).

Subversive Parties Barred From Ballot.

No statutory provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 20-13-1, 20-13-11, Supp., 20-13-17, Supp.).

Fraudulent registration (§ 20-13-5, Supp.).

Intimidation of or hindering voter (§§ 20-13-3, 20-13-6).

Gift or promise of money, public or private employment, or anything of value to a person to vote or not to vote (§§ 20-13-1, 20-13-2, 20-14-33).

Bribing officers or members of a political nominating meeting (§ 20-14-37).

Betting on outcome of election (§ 20-14-30).

Advertising and other printed paid matter in newspaper or periodical without names of officers of organizations or names and addresses to voter responsible for same; payment to publisher to advocate or oppose candidate editorially (§§ 20-14-24, 20-14-27).

Publication of false statement in relation to any candidate (§ 20-14-28).

Election coercion or intimidation of employee by employer (§ 20-13-6), or influencing employee's vote by employing corporation (§ 20-13-7).

Refusing employees time to vote (§ 20-13-18) or deducting from salary of such time off (§ 20-14-31).

Insertion of political matter in newspaper in advertising, reading, or editorial columns, by publisher without prior filing of statement of ownership of publication (§ 20-14-25).

Printing of political election matter, other than paid advertising in newspaper by owner of paper who is candidate, without prior filing of a declaration of interest in the publication (§ 20-14-26).

Charging by newspaper of excessive rates for accepting paid political advertising (§ 20-14-27).

Payment to person for loss due to attendance at polls or at registration office (§ 20-14-31).

Payment to person to induce him to be or refrain from being a candidate (§ 20-14-34).

Intoxicating liquor, sale on election day (§ 32-1-42).

Tampering with voting machine (§ 20-18-18, Supp.).

Electioneering on election day within any polling place, or in any public street or room, or in a public manner within 100 feet of any polling place (§ 20-13-17, Supp.).

False impersonation or double voting (§ 20-14-29).

Solicitation of candidates by eleemosynary institutions (§ 20-14-35).

Write-in Provisions.

Permitted in general elections (§ 20-7-20, Supp.); on voting machines (§ 20-18-10).

Vacancy in Office.

When a vacancy occurs in the office of United States Senator, it shall be filled for the unexpired term at the next general election.

The Governor, however, shall make temporary appointment of a Senator to serve until the vacancy is filled by election as prescribed in this section by appointment of one of three persons nominated by the central political committee of the same political party as the prior officer holder (§ 20-1-6).

VERMONT

Unless otherwise designated, references are to Title 17 of the Vermont Statutes Annotated, 1982, and to the 1989 Cumulative Pocket Supplement.

The State of Vermont will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Second Tuesday of September in even-numbered years (§ 2351). (September 11, 1990).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Primary petitions with assent of candidate.—500 signatures of legal voters are required (§§ 2353, 2354, and 2355). File with Secretary of State (§ 2357) not later than 5:00 p.m. on the third Monday of July preceding the primary election (§ 2356). (July 16, 1990).

A voter shall not sign more than one primary petition for the same office, unless more than one nomination is to be made, in which case he may sign as many petitions as there are nominations to be made for the same office (§ 2354).

Candidate of minor political party (political party whose candidate for any State office in the most recent general election polled less than five percent of the vote cast for that office) may be nominated and have his name printed on the general election ballot (§§ 2103(23) and 2381).

Certificate of nomination.—These candidates may be nominated by the state committee (§ 2382). When a nomination is made under these provisions, the chairman and the secretary of the committee making the nomination shall file a statement under oath, setting forth the name and residence of the candidate, the office for which the nomination is made, and the committee making the nomination. The candidate shall file a consent to have his name printed on the ballot (§ 2385). Statements shall be filed not more than sixty days before the day of the general election and not later than 5:00 p.m. on the 47th day before the day of the general election (§ 2386, Supp.). File with Secretary of State (§ 2387).

Independent candidate

Certificate of nomination.—Signatures of voters qualified to vote in an election for the office, equal in number to at least 1,000 (§ 2402(b)(1), Supp.). Certificate of nomination must include certificate of the town clerk where the signers appear to be voters, certifying those signatures which are valid and those which are not (§ 2402, Supp.). File with Secretary of State not more than 60 nor less than forty-seven days before general election (§§ 2402, 2386, Supp.). (Sept. 20, 1990).

Filing Fees and Assessments—No statutory provision.

Crossfiling by candidates.

Not prohibited.—person nominated for the same office by more than one party at a primary or convention, or as an independent, "at least 36 days before election may elect the party or parties in which he will be a candidate" (§ 2474).

Subversive Parties Barred from Ballot.

Advocating overthrow of Government by force.—In order to qualify as an elector, a person must first take the "Freeman's Oath" (§ 2121).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 2017).

Intimidation of or hindering voter (§§ 1972, 2017, 2019).

Intoxicating liquor used to influence votes (§ 2018).

Printing or publication of anonymous political literature (§ 2022).

Destroying certificates of nomination (§ 2021).

Casting more than one ballot (§ 1971).

Voting in more than one place (§ 1973).

False answer as to right to vote (§ 2013).

Unqualified person voting (§ 2014).

Fraudulent voting (§ 2015).

Aiding unqualified voter to vote (§ 2016).

Write-in Provisions.

Permitted in primary (§ 2362) and in general elections (§ 2472).

Vacancy in Office.

If a vacancy occurs in the office of United States Senator, the governor shall call a special election to fill the vacancy. His proclamation shall specify a day for the special election and a day for a special primary. The special election shall be held not more than three months from the date that the vacancy occurs, except that, if vacancy occurs within six months of a general election, the special election may be held the same day as the general election (§ 2621). The governor may make an interim appointment to fill a vacancy in the office of United States Senator, pending the filling of the vacancy by special election (§ 2622).

VIRGINIA

Unless otherwise designated, references are to the Code of Virginia, Title 24.1, 1985 Replacement Volume and to the 1989 Cumulative Supplement.

Primary Elections, when held.

Second Tuesday in June next preceding the general election (§ 24.1-174). (June 12, 1990).

Vote required to nominate

Any candidate for party nomination by any office who receives a plurality of the votes cast by his party shall be the nominee of his party for such office and his name shall be printed on the official ballots used in the election for which the primary was held (§ 24.1-179).

Each party shall have the power to provide whether a party nomination shall be made by direct primary or by some other method (§ 24.1-171, § 24.1-172). No party which has adopted the plan of making nominations for office by primary shall have the power to nominate by convention any candidate to be voted for at any particular primary (§ 24.1-173).

Nomination Papers, Petitions, Etc.

Party candidate for primary

Declaration of candidacy and petition.—Signatures of qualified voters of the state equal to one-half of one percent of the number of voters registered within the election district as of the first day of January of the year preceding the year in which such petition must be filed are required including at least 200 qualified voters from each congressional district. Petition must be accompanied by the affidavit of a person qualified to vote and a resident in the same congressional district as the person signing, to the effect that he has witnessed such signatures (§ 24.1-185, Supp.). Candidates must file declaration of candidacy, together with petition, affidavit and filling fee receipt with the State Board of Elections not earlier than noon of the 77th day and not later than 5:00 p.m. of the 60th day before the primary. (§§ 24.1-184, 24.1-185, Supp., 24.1-186.1). (By April 13, 1990).

Independent candidate

Notice of candidacy and petition.—Signatures of qualified voters of the state equal to one-half of one percent of the number of voters registered within the election district as of the first day of January of the year in which such petition must be filed are required and including at least 200 qualified voters from each congressional district. (§ 24.1-168). Petition must be accompanied by a notice of candidacy, attested by two witnesses, and filed with the State Board of Elections not later than the time fixed for the closing of the polls on the second Tuesday in June. (June 12, 1990) (§§ 24.1-166, 24.1-168).

Filing Fees and Assessments.

For primary candidates

Amount.—Two percent of one year's minimum salary attached to the office for which he is a candidate in effect in the year in which he files (§ 24.1-198).

Date of payment.—Before filing declaration of candidacy (§ 24.1-198).

To whom paid.—State Treasurer (§ 24.1-199).

Crossfiling by Candidates.

Prohibited.—Candidate must be a member of the party whose nomination he seeks. Declaration of candidacy contains authorization to election officials not to print candidate's name on general election ballot if candidate is defeated at primary (§ 24.1-184).

Subversive Parties Barred from Ballot.

No statutory provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 24.1-104, 24.1-268, 24.1-271, 24.1-101, 24.1-272).

Intimidation of or hindering voters (§§ 24.1-104, 24.1-268, 24.1-101).

Gift or promise of money or anything of value to a person to vote (§ 24.1-272).

Receipt of compensation by publication for advocating election or defeat of any candidate in primary, unless such article is marked "paid advertisement" (§ 24.1-276).

Soliciting money, etc., to influence or procure votes at any election for or against any candidate (§ 24.1-272).

Bribe to and acceptance of bribe by a candidate to influence his conduct on any matter which may come before him in his official capacity if elected (§§ 18.2-438, 18.2-439).

Distribution of any writing concerning any candidate for office without identity of sponsor (§ 24.1-277).

Tampering with voting machines (§ 24.1-275).

Use of loudspeaker within 300 feet of a polling place on election day (§ 24.1-96.1).

Loitering near polls (§ 24.1-101).

Write-in Provisions.

Prohibited at primaries (§ 24.1-129). Permitted in general election (§ 24.1-129); on voting machines (§ 24.1-217).

Vacancy in Office.

If a vacancy occurs, the Governor shall issue a writ of election to fill such vacancy. Such election shall be held at the next succeeding November election. The Senator, so elected, shall hold such office for the unexpired term of the Senator whom such person is elected to succeed, but the Governor may make a temporary appointment to fill such vacancy until the people fill same by election (§ 24.1-3).

WASHINGTON

Unless otherwise designated, references are to Title 29 of the Washington Revised Code Annotated and to the 1988-1989 Cumulative Annual Pocket Part.

The State of Washington will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

The names of the candidates of the major political parties and those independent candidates and candidates of minor political parties who have been nominated shall appear upon the partisan primary ballot (§ 29.18.020, Supp.). No name of a candidate for a partisan office shall appear on the general election ballot unless he receives at least one percent of the total votes cast for that office. However, only the name of the candidate who receives a plurality of the votes cast for the candidates of his party for any office may appear on the general ballot (§ 29.18.110, Supp.).

Third Tuesday in September in general election years, or on the seventh Tuesday immediately preceding such election, whichever occurs first (§ 29.13.070, Supp.). (September 18, 1990).

Conventions, when held.

For new or minor parties, and for independent candidates (§ 29.24.010).

Last Saturday immediately preceding first day for filing of declarations of candidacy by major party candidates (§ 29.24.020, Supp.).

Nominating Papers, Petitions, Etc.

Party convention for primary

Declaration of candidacy.—File with Secretary of State not earlier than the fourth Monday of July nor later than the following Friday (§§ 29.18.025, Supp.). (July 27, 1988)

Candidate nominated by convention

Nominating certificate.—Signatures are required of registered voters present at the convention numbering at least one for each 10,000 voters who voted in the last presidential election in the State, or twenty-five, whichever is the greater (§§ 29.24.030, Supp., 29.24.040, Supp.). The signature on a convention nominating certificate of a person who signed a nominating certificate in any other convention held on the day of the convention is not valid (§ 29.24.050, Supp.). File with Secretary of State by last day for filing of declarations of candidacy by major party candidates (§ 29.24.040, Supp.). If a nominating certificate is valid, each candidate whose nomination is evidenced thereby may file with the Secretary of State a declaration of candidacy in the form prescribed for candidates subject to primary election, and each candidate must at the time of filing the declaration pay to the Secretary of State the fee prescribed by law for candidates subject to the primary election (§ 29.24.070, Supp.).

Affidavit of candidacy.—File with declaration of candidacy. (§ 29.18.030, Supp.).

Filing Fees and Assessments.

For both primary and convention candidates (§§ 29.18.030, Supp., 29.18.050, Supp., 29.18.070). *See also* Write-in Provisions, below.

Amount.—One percent of annual salary.

Date of payment.—When filing declaration of candidacy.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited.—Must be member of party whose nomination he seeks (§ 29.18.030, Supp.).

No candidate's name shall appear more than once on general election ballot. If nominated by two or more political parties, candidate must select one (§ 29.30.101, Supp.).

No candidate who has offered himself as a candidate for nomination of one party at the primary shall have his name printed on the succeeding general election ballot as the candidate of another party (§ 29.30.101, Supp.).

Subversive Parties Barred From Ballot.

Communist Party.—(§§ 9.81.050, 9.81.083).

Advocating overthrow of Government by force.—Candidate shall sign affidavit that he or she is not a "subversive person" as defined in section. (9.81.010(5), §§ 9.81.010 to 9.81.040, 9.81.090, 9.81.100, 29.18.030).

Unconstitutional vagueness invalidates the provisions of this chapter which, as condition of employment, require every state employee to swear that he is not a "subversive person"—such person being not only one who himself commits specified acts but also one who abets or advises another in aiding third person to commit an act which will assist yet a fourth person in overthrow and alteration of constitutional government—and that he will not knowingly become or remain a member of a subversive organization, such organization being defined as one which engages in or assists in activities intended to alter or overthrow the government by force or violence or which has as its purpose commission of such acts. *Baggett* v. *Bullitt,* 377 U.S. 360 (1964).

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 29.85.060, 29.85.070, 29.85.090).

Intimidation of or hindering voter (§§ 29.85.060, 29.85.070).

Gift or promise of money, or anything of value to a person to vote or not to vote (§ 29.85.080).

Transportation of voters to polls to influence vote (§ 29.85.080).

Intoxicating liquor, etc., treating with, to influence vote (§ 29.85.080).

False assertion or propagation of false report concerning candidate (§ 29.85.070).

Destroying or defacing election supplies and notices (§ 29.85.110).

Electioneering within 300 feet of polls (§ 29.51.020).

Tampering with voting machine (§ 29.85.260).

Illegally signing nominating certificate (§ 29.85.105, Supp.).

Write-in Provisions.

Write in votes are permitted, but are invalid if they are for a person who has offered himself as a candidate for the nomination for the same position. Only those write-in votes constituting the greatest number of single political party designation shall be valid for counting purposes when the canvassing authority certifies the official election returns (§ 29.51.170).

Permitted in primary and in general election (§ 29.51.170); on voting machines, so long as political party affiliation is also written by the voter after the candidate's name in an election for a partisan office (§ 29.51.170).

A candidate who was nominated at a primary election by write-in votes shall pay the same filing fee as primary and convention candidates, within five days after official canvass of the primary vote (§ 29.51.170).

Vacancy in Office.

When a vacancy happens in the representation of the State in the Senate of the United States, the Governor shall make a temporary appointment until the people fill the vacancy by election (§ 29.68.070).

Whenever a vacancy occurs in the office of United States representative or United States senator from this state or any congressional district of this state, the governor shall order a special election to fill the vacancy. Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing peirod, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant. If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary and special vacancy elections shall be held in concert with the state primary and state general election in the year.

If the vacancy occurs on or after the first day for filing under RCW 29.18.030 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary at which candidates are to be nominated. The names of candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. If the vacancy occurs later than the second Friday following the close of the filing period, a special primary and special vacancy election to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election. As used in this chapter, "county" means in the case of a vacancy in the office of United States senator, any or all of the counties in the state and, in the case of a vacancy in the office of United States representative, only those counties wholly or partly within the congressional district in which the vacancy has occurred (§ 29.68.080).

WEST VIRGINIA

Unless otherwise designated, references are to the West Virginia Code Annotated (1987 Replacement Volume) and the 1987 supplement.

Primary Elections, when held.

Second Tuesday in May. (§ 3-5-1) (May 8, 1990).

Nominating Papers, Petitions, Etc.

Certificate of announcement of candidacy.—File with Secretary of State not earlier than the second Monday in January and not later than the first Saturday in February preceding the primary election. (§ 3-5-7) (By Feb. 3, 1990).

Candidates of minor parties (which polled less than ten percent of total vote case for Governor at last general election).—Nomination may be by convention or by certificate in the same manner as independents (§ 3-5-22). If by convention, file certificate of nomination with Secretary of State not later than one day preceding the primary. (§ 3-5-24).

Independent candidates.—Groups of citizens having no party organization may nominate candidates by petition. Candidate shall file with Secretary of State declaration containing name of political party which he proposes to represent, its platform, and principles, not later than thirty-one days before primary. Certificate of nomination, bearing signatures of registered voters in number equal to not less than one percent of entire vote cast for United States Senator at last general election, must be filed with Secretary of State not later than one day before primary. (§ 3-5-23).

Filing Fees and Assessments.

Amount.—One percent of annual salary (§ 3-5-8).

Date of payment.—At time of filing certificate of announcement of candidacy (§ 3-5-8) or of declaration by independent candidates (§ 3-5-23).

To whom paid.—Secretary of State (§§ 3-5-8, 3-5-23).

The West Virginia Supreme Court of Appeals held that the failure to provide a reasonable alternative to filing fees for impecunious candidates to obtain access to the ballot renders the filing fee requirement unconstitutional as to such candidates, *West Virginia Libertarian Party* v. *Manchin*, 270 S.E. 2d 634, (1980).

Crossfiling by Candidates

Prohibited. Must be affiliated with political party whom he wishes to represent and it must be openly known that such person is a bona fide member of such party (§ 3-5-7).

Candidate is not to run for more than one office, except that candidate for office may also be candidate for President or Vice President of United States, or for certain political party offices (§ 3-1-47).

Subversive Parties Barred From Ballot.

No statutory provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 3-9-12, 3-9-20).

Intimidation of or hindering voter (§§ 3-8-11(c), 3-9-10).

Gift or promise of money, employment, or anything of value to a person to vote or not to vote (§§ 3-9-12, 3-9-13, 3-8-12(e)).

Betting on outcome of election (§ 3-9-22).

Advertising and other printed matter without name of sponsor, or in a newspaper, editorially, or, paid for, without designating same as a paid advertisement (§§-3-8-12(a), (b)).

Solicitation of funds from candidates by various organizations and persons (§§ 3-8-11(a), (b)).

Election coercion, or intimidation of employees by employer (§§ 3-8-11(d), 3-9-15, 3-9-20).

Solicitation from or intimidation and coercion of public employee respecting campaign contribution or political activity (§§ 3-8-12(c), (g)).

Fraudulent certificates of nomination (§ 3-5-23(b)).

Bribery and unlawful influence by voters (§ 3-9-16).

Electioneering within 60 feet of polling places (§ 3-9-9).

Tampering with voting machines (§ 3-4-31), electronic voting systems (§ 3-4A-33).

Unauthorized presence in election room (§ 3-9-6); persons prohibited about voting booth (§ 3-4A-23), voting machine (§ 3-4-22).

Various offenses involved with wrongful request for assistance in voting (§ 3-1-34).

Disorder at polls (§ 3-1-38).

Illegal voting (§§ 3-1-39, 3-9-17).

Unlawful registration or rejection of voter (§ 3-2-35).

Neglect of duty by registration officers (§ 3-2-36).

Alteration or destruction of registration records (§§ 3-2-37, 3-2-40).

Withholding information in connection with registration (§ 3-2-38).

Interference with voter registration (§ 3-2-39).

False or fraudulent election returns; tampering with, destroying or misdelivering ballots, records, etc.; election forgeries (§ 3-9-1).

Unlawful printing, possession or delivery of ballots (§ 3-9-2).

False swearing (§ 3-9-3).

Election commissioner's failure to procure or return supplies (§ 3-9-4).

Destruction or removal of election supplies and equipment (§ 3-9-5).

Wrongful refusal or allowance of votes; malicious or frivolous penalties (§ 3-9-7).

Distinguishing marks on ballots (§ 3-9-8).

Various other unlawful acts at polling places (§ 3-9-9).

Disorder at polls; failure to prevent the same (§ 3-9-10).

Failure to make election returns (§ 3-9-11).

Various unlawful acts by corporations (§ 3-9-14).

Unlawful voting in primary elections (§ 3-9-18).

Violations concerning absent voters' ballots (§ 3-9-19).

Failure to destroy unused ballots (§ 3-9-19).

Write-in Provisions.

Permitted in general election (§ 3-6-5(b)(3)); on voting machines (§ 3-4-8) (3)); on electronic voting system (§ 3-4A-9). Not permitted in primaries; see *State* v. *Ballot Counters*, 96 S.E. 1050 (W. Va. 1918); (§ 3-5-13).

Vacancy in Office.

If a vacancy occurs, it shall be filled by temporary appointment by the Governor. If the unexpired term is for a period of less than 2 years and 6 months, the appointment shall be for the unexpired term. If the unexpired term is for any longer period, the appointment shall be until the next general election and until the election and qualification of a successor to the person appointed, at which election the vacancy shall be filled by election for the unexpired term (§ 3-10-3).

WISCONSIN

Unless otherwise designated references are to the Wisconsin Statutes Annotated (1986) and to the 1989 Cumulative Annual Pocket Part.

The State of Wisconsin will not be holding senatorial elections in 1990. The following statutory provisions are listed for future reference.

Primary Elections, when held.

Second Tuesday in September in even-numbered years. (Sept. 11, 1990) (§ 5.02(18)).

Nominating Papers, Petitions, Etc.

Party candidate for primary

Nomination papers.—Nomination papers shall be circulated not sooner than June 1 preceding election (§ 8.15(1)). Signatures of party members are required equal in number to not less than 2000 nor more than 4000 electors (§ 8.15(6)(a)). File with the elections board not later than 5 p.m. on second Tuesday in July preceding primary (§§ 8.15(1), 8.15(8)(a)). (July 10, 1990).

Declaration of candidate.—Declaration must accompany nominating papers, that if nominated and elected, candidate will qualify for office for which he seeks nomination (§ 8.15(4)(b)).

Independent candidate

Nomination papers.—Nomination papers shall be circulated no sooner than June 1 preceding the election (§ 8.20(8)(a)). Signatures are required of not less than 2,000 nor more than 4,000 electors (§ 8.20(4)). File with elections board not later than 5 p.m. on second Tuesday in July (§ 8.20(8)(a)). (July 10, 1990)

Declaration of candidate.—Declaration must accompany nomination papers, that if elected, candidate will qualify for such office (§ 8.20(6)).

Write-in candidate

Declaration by candidate.—Person nominated by write-in votes in a primary must file a declaration of acceptance with elections board within 3 days after receiving official notice of nomination (§ 8.16(2), Supp.).

A person who receives only write-in votes may not appear on the ballot as the candidate of a recognized political party unless he receives at least five percent of the votes cast for the party's gubernatorial candidate at the last general election or the number of votes equivalent to the minimum number of signatures required on nomination papers for that office whichever is greater. (§ 8.16(2), Supp.).

Filing Fees and Assessments—No statutory provision.

Crossfiling by Candidates.

Prohibited.—No filing officer shall accept nomination papers for any candidate to run in more than one party primary at the same time. An independent candidate at a partisan primary or other election may not file nomination papers as the candidate of a recognized political party for the same office at the same election, or vice versa. A person who files nomination papers as the candidate of a recognized political party may not file nomination papers as an independent candidate for the same office at the same election. (§ 8.15(7)).

If nominated to the same office by more than one party, or nominated for more than one partisan or state nonpartisan office, candidate's name shall appear under the first party nominating him or under the office to which he was first nominated. If the double nomination is simultaneous, candidate shall file statement declaring his party or office preference (§ 8.03(1)). However, this provision does not apply when a candidate for President or Vice President of the United States is nominated for another elective office during the same election. If the candidate is elected President or Vice President, such election shall void his election to any other office. A special election shall be held to fill any office vacated under this subsection (§ 8.03(2)).

Subversive Parties Barred from Ballot.

No provisions.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§ 12.11).

Intimidation of or hindering voter (§ 12.09).

Gift or promise of money or anything of value to a person to vote or not to vote (§ 12.11).

Bribing members of a political nominating committee (§ 12.11).

Betting on outcome of election, as disqualifying person from voting at such election (§ 6.03(2)).

Identification of political contributions, disbursements and communications (§ 11.30(2)).

Solicitation of funds from candidate by various organizations and persons (§ 11.34).

Election coercion or intimidation of employees by employer, or preventing employees from acting as election officers or from voting (§ 12.07).

Tampering with voting machine, voting device, automatic tabulating equipment, or ballot box (§ 12.13).

Electioneering near polls, on election day (§ 12.03).

Failure to give employees time off for voting (§ 12.07).

Use of (state) public funds for mass mailings after filing nomination papers (§ 11.33).

Political use of State-owned vehicles and aircraft (§ 11.37).

Election fraud by elector, voting without necessary qualifications, falsely procuring registration, impersonating a registered elector, voting more than once at same election (§ 12.13(1)).

Election fraud by election officials, various offenses (§ 12.13(2)).

Falsely making, or defacing, nomination papers (§ 12.13(3)).

Destroying supplies in polling booths (§ 12.13(3)).

Defacing, destroying, or removing legally placed campaign advertising (§ 12.13(3)).

Falsely obtaining absentee ballot (§ 12.13(3)).

Soliciting a person to show how his ballot is marked (§ 12.13(3)).

Presenting false identification for the purpose of voting (§ 12.13(3)).

Publication of a false statement in relation to any candidate (§ 12.05).

Promise of contributions to religious, charitable, or fraternal organization by candidate, or solicitation of such promise (§ 11.34).

Printing of campaign matter other than paid advertisement in newspaper owned in any part by candidate or committee, without prior filing of declaration of interest (§§ 11.30 (3), (4)).

Compensation of media to influence election statements; excessive rates for advertising (§ 11.32).

Political solicitation involving public officials and State employees (§ 11.36).

Offer of any office or employment to influence voter (§ 12.11).

Offer of special privileges by public utilities to candidates (§ 11.40).

Write-in Provisions.

Permitted in primary 8.16(2) and in general elections (§§ 5.64(1)(a), 7.50(2)(a)); on voting machines (§§ 7.50(2)(h)).

In order for a write-in candidate in primary to secure the nomination of a recognized party, he must receive write-in votes equivalent to five percent of the party vote cast for Governor at the last general election or the number of votes equivalent to the minimum number of signatures required on nomination papers for that office whichever is greater (§ 8.16(2)).

Independent candidates may not be nominated by write-in votes but shall file nomination paper (§ 8.16(2)).

Vacancy in Office.

If a vacancy occurs it shall be filled by temporary appointment by the Governor, which appointment shall continue until a successor is elected for the unexpired term. If the vacancy occurs 60 days or more prior to the second Tuesday in July in even-numbered years, such vacancy shall be filled at the September primary and general election in such even year. If the vacancy occurs less than 60 days prior to the second Tuesday in July in even-numbered years, it shall be filled 2 years hence (§ 17.18(2)). The provisions for election for the unexpired term do not apply if the next general election is one at which the vacant Senate seat is to be filled for a full term. The Senator so elected shall take office as soon as possible after receiving a certificate of election.

Following any regular election to the U.S. Senate in which the incumbent Senator is not reelected, the Governor shall, if the incumbent Senator resigns after the election and prior to the expiration of his or her term, immediately appoint the Senator-elect for the balance of the unexpired term (§ 17.18(2)).

WYOMING

Unless otherwise designated, references are to the Wyoming Statutes, 1977 and to the 1989 Cumulative Supplement.

Primary Elections, when held.

First Tuesday after 3rd Monday in August in general election years (§ 22-5-201). (August 21, 1990).

Nominating Papers, Petitions, etc.

Party candidate for primary

Application for nomination.—File with Secretary of State not more than 74 and not less than 59 days before primary (§§ 22-5-206(a), 22-5-209). (June 23, 1990).

Independent candidate

Nomination by petition.—Signatures required from registered electors equal to five percent of total number of votes cast for Representative in Congress in last general election in state (§§ 22-5-301, Supp., 22-5-304). File with Secretary of State 70 days before general election (§§ 22-5-306, 22-5-206(a), 22-5-307, Supp.).

Ineligible candidate.—Candidate defeated in the primary election is disqualified from being a candidate by petition (§ 22-5-302).

Write-in candidate in primary.

Acceptance of nomination.—Write-in candidate must accept nomination by telephone, telegram or letter within 5 days after notification by canvassing board of nomination (§ 22-5-219).

Filing Fees and Assessments.

Primary candidates (§ 22-5-208).

Amount.—$100.

Date of payment.—When filing application for nomination.

To whom paid.—Secretary of State.

Independent candidates (§ 22-5-306).

Amount.—$100.

Date of payment.—When filing nomination petition.

To whom paid.—Secretary of State.

Write-in candidates (§ 22-5-219).

Amount.—$100.

Date of payment.—Within 5 days after notification of nomination by canvassing board.

To whom paid.—Secretary of State.

Crossfiling by Candidates.

Prohibited.—Must be a member of party whose nomination he seeks (§ 22-5-204).

A candidate defeated in a primary election is disqualified from being a candidate by petition (§ 22-5-302).

The name of a candidate shall be printed on the ballot but once (§ 22-6-112).

Subversive Parties Barred from Ballot.

Communist Party.—(§ 22-6-114).

Advocating overthrow of Government by force.—§ 22-5-114.

Offenses.

Unlawful solicitation of votes, corruptly influencing voter, bribery (§§ 22-26-1-, 22-26-110).

Intimidation of or hindering voter, election official, or challenger (§ 22-26-111, Supp.).

Gift or promise of money or thing of value to person to vote or not to vote (§§ 22-26-1-, 22-26-110).

Intoxicating liquor, furnishing on election day, etc. (§ 22-26-115).

Unidentified advertising (§§ 22-25-110 *et seq.*).

Election coercion by employer (§§ 22-26-116, 22-26-117).

Tampering with voting machine, ballot box (§§ 22-26-104, 22-26-115).

Electioneering within 100 yards of polling places (§ 22-26-113, Supp.).

Payment for withdrawal of candidate (§ 22-26-118).

Employees entitled to time off to vote (non-criminal provision) (§ 22-2-111).

Various registration offenses (§ 22-26-102).

Unlawful opening of ballot box (§ 22-26-103).

Various offenses in connection with voting ("false voting") (§ 22-26-106).

Falsifying election documents (§ 22-26-107).

False swearing (§ 22-26-108).

Disturbing polling place (§ 22-26-114).

Various violations by election officials (§ 22-26-119).

Write-in Provisions.

Permitted in primary (§ 22-6-119); in general election (§ 22-6-120, Supp.); on voting machines (§ 22-10-101); on electronic voting systems (§ 22-11-103).

Vacancy in Office.

Any vacancy in any other elective office in the state except representative in congress or the board of trustees of a school or community college district, shall be filled by the governing body by appointment of a temporary successor to serve until a successor for the remainder of the unexpired term is elected at the next general election and takes office on the first Monday of the following January. If a vacancy in a four (4) year term of office occurs after the first day for filing an application for nomination pursuant to section 22-5-209, the temporary successor appointed shall serve until the first Monday in January following the second general election thereafter. The following apply: The governor shall make a temporary appointment to fill a vacancy in the office of United States Senator and in any state office other than the office of justice of the supreme court and the office of district court judge. (§ 22-18-111(a), Supp.).

PART IV

CAMPAIGN ACTIVITIES BY CONGRESSIONAL EMPLOYEES

PART IV

CAMPAIGN ACTIVITIES BY CONGRESSIONAL EMPLOYEES *

A. General Campaign Activities

There are no Federal statutes, regulations, or rules of Congress which specifically prohibit congressional employees from voluntarily engaging in general campaign activity. The broad prohibition against partisan campaign activities by executive branch personnel in the Federal Government, commonly known as the "Hatch Act" (see 5 U.S.C. § 7324), is not applicable to congressional employees. Apart from specific restrictions in the area of campaign funds and finances,[1] House and Senate staffers may generally participate in partisan campaign activities during their free time.

Although there are no general "Hatch Act"-type restrictions on campaigning by congressional staff, there do exist general guidelines, ethical standards, and rules in Congress which indicate that official congressional staff, since they are Federal employees paid by monies appropriated from the United States Treasury, are considered to be compensated for services rendered for public purposes, that is, for the performance of "official" congressional duties commensurate with the salary they receive from public funds.[2] These standards and guidelines have been interpreted by the ethics committees in both the House (Committee on Standards of Official Conduct) and the Senate (Select Committee on Ethics) to mean that employees may not engage in campaign activities on behalf of a Member to the neglect of their official duties; but that once employees have fulfilled their official congressional duties for which they are compensated from public funds, they may then generally engage in partisan campaign activities on their own "free time" or "off-duty" hours.[3]

In addition to congressional ethical standards and rulings, there may be potential legal implications if salaries are claimed from

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[1] See 18 U.S.C. §§ 602 (contributions to one's employer), 603 (soliciting contributions from federal employees), 607 (soliciting contributions in a federal building), and Senate Rule 41 (campaign fund activity by staff).

[2] House Rule XLIII, clause 8; "Regulations and Accounting Procedures for Allowances and Expenses," House Administration Committee, Part II, C, 2(a) and Part III, B, 2(a); House Rule XI, clause 6(a)(1); note Legislative Branch Appropriations Acts, see for example, P.L. 100–458, 102 Stat. 2160, 2164, appropriating funds for "official" personnel, and for performance of "official" duties; S. Rep. No. 95–500, 95th Cong. 1st Sess. 4; S. Rep. No. 95–241, 95 Cong., 1st Sess. 1; see also Code of Ethics for Government Service, 72 Stat. B12, ¶ 3 (1958).

[3] Senate Select Committee on Ethics Interpretative Rulings Nos. 3, 5, 22, 59, 88, 154, 194, 263, 302, 326, 349; House Committee on Standards of Official Conduct Advisory Opinion No. 2, July 11, 1973.

public appropriations for individuals merely for their performance of non-official, campaign services on behalf of a Member. Although federal court decisions have shown that the question of civil liability for such conduct might not be justiciable under the specific provisions of the Federal False Claims Act,[4] criminal liability might possibly be found in extreme cases where a scheme to compensate individuals from public monies merely for campaign services rendered to a Member is considered to constitute a fraud against the government.[5] Regardless of a Member's or employee's ultimate civil or criminal liability under Federal law, however, judicial decisions regarding false claims for official salaries would not supersede the ethical standards and rulings of the appropriate House and Senate committees on the subjects of campaign activities, official duties and compensation of staffers, as each House has express constitutional authority to promulgate its own rules for proceeding and to exercise responsibility over the conduct of its own Members and those subject to its jurisdiction.[6]

Even though an individual is on a Member's official payroll and receiving salary for official duties, there is no flat prohibition upon an employee of a Member of Congress receiving outside compensation form the Member's campaign committee for campaign related duties during such person's non-congressional and non-official time.[7] In fact, if a staffer is to perform extensive campaign activities for the Member, such person might have his or her official salary reduced commensurate with the decrease in official duties to be performed during this period, or be removed from the official payroll, and have the campaign committee compensate that person for the outside political, campaign duties performed, to assist in avoiding any implication that official funds are compensating one for political activities.

Finally, at any time, but particularly during a campaign, the public's *perception* of the conduct of an elected official and his or her staff may have significance beyond the mere conformity with the technical requirements of rules or statutes. When official staff are involved in a Member's reelection campaign, such activity may be an easy target for political opponents seeking media attention by charging that official government personnel are being used for private political campaigning, raising the specter of appearances of impropriety. Although one can not insulate a Member of Congress/candidate completely from specious and unfair political attacks, sufficiently precise and accurate record keeping and time logs of one's official congressional work and duties, for which one receives a salary from the government, may be useful for documentation during a period when the staffer is also working on the campaign during his or her "free" or "non-official" time.

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[4] 31 U.S.C. §§ 3729, 3730, see *United States ex rel. Joseph* v. *Cannon*, 642 F.2d 1373 (D.C. Cir. 1981), *cert. denied* 455 U.S. 999 (1982).

[5] See *United States* v. *Clark*, Criminal No. 78-207 (W.D. Pa. 1978); note also in other contexts, *United States* v. *Diggs*, 613 F.2d 988 (D.C. Cir. 1979), *cert. denied*, 446 U.S. 982 (1980); and *United States* v. *Pintar*, 630 F.2d 1270, 1275 (8th Cir. 1989).

[6] United States Constitution, Article I, Section 5.

[7] Note, for example, Senate Select Committee on Ethics Interpretative Rulings Nos. 357, December 16, 1982, and 402, October 18, 1985.

1. Campaigning and Official Duties

a. Congressional Standards and Rulings

Congressional standards and rulings on campaign activities by staffers, and on the use of staff appropations to pay individuals for campaign services, have established a clear ethical principle and rule to be observed in both Houses of Congress: Congressional staff employees are compensated from public funds for the performance of official congressional duties; that is, to assist a Member with his official legislative and representative duties, rather than merely for services rendered to the Member's reelection campaign. In a federal court decision concerning the congressional franking privilege, the United States District Court for the District of Columbia noted Congress' recognition of the principle that public funds are to be used for official congressional, and not for campaign purposes: "It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection." *Common Cause* v. *Bolger,* 574 F.Supp. 672, 683 (D.D.C. 1982). Unlike rank and file employees in the executive branch, however, a congressional staffer may engage in campaign activities on his own "free time" or "off duty" hours as long as the staffer fulfills, and does not neglect those official duties required of him.

Since congressional staff may work irregular hours often depending upon the time the House or Senate stays in session, and since a staffer's specific official duties are assigned by the Member within his discretion, it is generally recognized that a staffer's "free time" or "off-duty" hours might occur in what is typically considered the conventional work day. It is also recognized that in the practical operation of a Member's office some minimal campaign related activities might unavoidably be performed by a Member's staff in the course of their official congressional duties for a Member. It has been suggested that although some minimal "overlap" may reasonably exist, it is the Member's responsibility to keep such campaign related activities by staff during duty hours to a "de minimis" amount, and to observe the general principle that staff are compensated from public funds for their assistance in the Member's official legislative and representative duties, rather than merely for services to the Member's own political campaign.

b. Senate

The use of staff on political campaigns was reviewed during the 95th Congress by various committees in the Senate. In recommending changes in the Senate Rules, the Special Committee on Official Conduct of the 95th Congress had proposed a rule which would have specifically required Senate employees who engaged "substantially" in campaign work to be removed from the Senate payroll. The proposal was dropped from the final measure, however, and as a compromise the measure directed the Senate Rules and Administration Committee to study this issue and to report proposals concerning the use of offical staff by holders of public office. See 123 *Cong. Rec.* 8041 (1977). The Special Committee had been desirous of some specific rule to express the existing general standard with regard to Senate employees since it felt that "the public is entitled to know that those employees in the Senate, receiving government salaries, are doing the public's business and not working directly for the reelection of their employer." S. Rept. 95-49, 95th Cong. 1st Sess. 14.

In its report on the rules, standards, and laws governing the use of Senate staff for political campaigns, as directed by S. Res. 110, 95th Congress, the Senate Rules and Administration Committee found that the standard and practice in the Senate was that staffers may engage in political campaign activities on behalf of their employer as long as they fulfill the official congressional duties required of them. That report states in part as follows:

> . . . [T]he general rule . . . which has been relied on to date by Senators and officers and employees of the Senate for guidance [is]: that members of the Senator's staff are permitted to engage in the reelection campaign of a Senator, as long as that staff member does not neglect his or her Senate duties. The nature and scope of a staff member's Senate duties are determined by each Member of the Senate. Such duties necessarily encompass political and representational responsibilities, as well as legislative, administrative, or clerical ones, and are often performed during irregular and unconventinal work hours. A similar rule of practice has been followed in the House of Representatives, and would be generally applicable to other Federal employees not covered by the Hatch Act. S. Rept. 95-500, 95th Cong., 1st Sess. 4.

The report of the Senate Rules and Administration Committee on a 1977 amendment to the Senate Rule restricting campaign fund activity of Senate staff (now Rule XLI) is further illustrative of the standards in the Senate concerning campaigning by staff employees. The committee concluded that Senate employees may participate in campaign activities on behalf of a Senator "so long as they don't neglect their Senate duties"; and may do so during vacation time, annual leave or on a leave of absence:

> The committee is not aware of any laws which prohibit individuals who are part of a Senator's staff from participating in a Senator's reelection campaign as long as they do not neglect their Senate duties, and the committee does not feel there should be such proscriptions. Furthermore, it is neither illegal nor a violation of Senate Rules for a member of a Senator's staff to work full time in political campaigns while on annual leave or vacation time or while on leave of absence from his or her Senate duties, and the committee feels there should not be any proscription of such actions. S. Rept. 95-241, 95th Cong., 1st Sess. 1.

Subsequent interpretative rulings by the Senate Select Committee on Ethics have similarly expressed the ethical principle and rule to be observed in the Senate. Although the Senate Rules do not specifically require it, the Senate Select Committee on Ethics has advised Members and staff that to assure that a staffer is performing official duties commensurate with his congressional salary, a staffer who is to engage in political campaign activities on behalf of a Member for any "extended period" should be removed from the public payrolls, or have his salary reduced to reflect his reduction in official duties. Some of these ruling are excerpted below:

Interpretative Ruling No. 3, May 5, 1977:

No provision of the Code of Official Conduct prohibits staff from attending a campaign fundraising event outside office hours or while on recorded vacation leave. The interim position of this committee is that Senators should encourage staff to remove themselves from the payroll during periods which they expect to be heavily involved in campaign activities. Routine participation after hours or on annual leave time is not now prohibited by the Code of Conduct.

Interpretative Rule No. 5, May 11, 1977:

The Code of Official Conduct, however, was not intended to prohibit routine matters performed outside of working hours such as preparing for mailing (e.g. typing, addressing, and stuffing envelopes) invitations and letters signed by others; making follow-up telephone calls on behalf of the sponsoring organization to determine projected attendance at the event; helping the sponsoring organization make arrangements for flowers, food and entertainment; and serving on a committee of hosts and hostesses at the time of the event, not as a sponsor, but simply to mingle with the guests on behalf of the sponsoring group.

Interpretative Ruling No. 22, May 26, 1977:

It is not intended that Senate employees be barred completely from all participation in political activity. Outside of Senate office hours staff may assist in planning and making arrangements for fund raisers so long as they do not become involved with solicitation of funds.

Interpretative Ruling No. 59, September 13, 1977:

. . . Members can and should remove staff from the Senate payroll when they are to participate for an extended period in substantial campaign activities. One is not removed from the payroll by being placed in a "terminal vacation leave" status.

Interpretative Ruling No. 88, November 16, 1977:

Although the staff member cannot make a direct contribution to a Member of Congress (and thus cannot attend as a paying guest), nothing in the Code of Official Conduct prohibits the staff member from attending the fundraiser on his own time. . . .

Interpretative Ruling No. 154, June 22, 1978:

As to the possibility of minimal involvement by a staff assistant with campaign-related business, the Select Committee believes that in a Senator's reelection campaign there might be some inadvertent and minimal overlap between the duties of a Senator's staff with respect to the Senator's representational function and his reelection campaign. However, a Senator has the responsibility to insure that such an overlap is of a de minimis nature and that staff duties do not conflict with campaign responsibilities.

Interpretative Ruling No. 194, October 8, 1978:

. . . [The] Select Committee ruled that it is preferable for a Senator to either reduce the salary or remove an employee from the Senate payroll when the employee intends to spend additional time on campaign activities, over and above leave or vacation time. The committee recognizes that staff members ought to be able to use bona fide vacation time for political campaign activity. As long as an office has an established and reasonable annual leave policy, and as long as an employee takes no more than the amount of time normally allowed for such leave, the committee believes that an employee may engage in campaign activities during that time.

Interpretative Ruling No. 263, June 12, 1979:

Other than the restrictions on political fund activity in Senate Rule 49 [now Rule 41], no rule expressly prohibits campaign activity by staff during off-duty hours or during established and reasonable annual leave time. In addition, the committee believes that Senate employees may engage in limited campaign-related activities during Senate hours, provided that the time involved is de minimis and such activity does not interfere with the employee's official Senate duties. However, if an employee intends to spend a substantial amount of time on campaign activities, the committee has ruled that a Senator should use his or her best judgment in determining whether to remove the staff member from the Senate payroll or reduce his or her salary commensurately.

Interpretative Ruling No. 302, February 21, 1980:

It is a Member's prerogative in staffing his or her office to prescribe an employee's duties and hours, and to consent to certain outside activities. Other than the restrictions on political fund activity in Senate Rule 41, no rule expressly prohibits political activity by staff during off-duty hours or during established and reasonable annual leave time. However, if an employee intends to spend a substantial amount of time on campaign activities, the committee has ruled that a Senator should use his or her best judgment in determining whether to remove the staff member from the Senate payroll or reduce his or her Senate salary commensurately.

Interpretative Ruling No. 326, July 1, 1980:

There is no provision of the Code of Official Conduct which prohibits such service [as a political party's National Committee Chairwoman from staffer's home state during off-hours and without compensation] by a member of the personal staff of a Senator. As S. Rept. 95–241 (95th Cong.) indicated, except for prohibitions of Rule 41 with respect to the handling of campaign funds, "it is neither illegal nor a violation of Senate Rules for a member of a Senator's staff to work full time in political campaigns while on annual leave or vacation time or while on leave of absence from his or her Senate duties. . . ."

The prohibitions on political activity within the Code of Official Conduct are found in Rule 41. The legislative history of Rule 41 makes it clear that the Code was not intended to proscribe or restrict legitimate, voluntary political activity such as that in question.

In furtherance of legislative intent, this committee has approved a Senate employee holding a position as a political party's precinct chairman as long as the state and local campaign activities were clearly separate and distinct from any fund-raising activities performed in connection with a Federal election, and the activities did not interfere with the employee's Senate duties. Interpretative Ruling No. 204 (Dec. 5, 1978).

Hence an employee on the personal staff of a Senator could, during off-hours and without compensation, serve as a political party's National Committee Chairwoman from her state.

If involvement in any campaign activity becomes extensive, however, the supervising Member may find it wise to remove the employee from the payroll for the period of extensive campaign involvement. See for example, Interpretation Ruling No. 3 (May 5, 1977); Interpretative Ruling No. 309 (February 21, 1980). This is important for the supervising Senator to recognize, because the position of National Committeeman or Committeewoman for a political party is an important position which could conceivably require a great deal of time on the part of the Senate employee.

Interpretative Ruling No. 402, October 18, 1985:

> In light of the Senator's apparent determination that his secretary's services for his campaign committees do not conflict with her Senate duties, her receipt of compensation is not prohibited by Senate Rules.

c. House of Representatives

Rulings in the House of Representatives have focused on various standards, rules and regulations applicable to Members and employees. Rules of the House specifically provide that a Member "shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives." House Rule XLIII, clause 8. Additionally, the legislative appropriations provisions for clerk hire in the House specifically state that such clerk hire funds are for payment to persons for assistance to a Member in the discharge of his "official and representative duties." See, for example, Pub.L. 100-458, 102 Stat. 2164, Legislative Branch Appropriations, 1989. The House Committee on Standards of Official Conduct has thus found that an employee may engage in campaign activity "during the periods he is free" once he has fulfilled the official congressional duties assigned to him. The committee noted that since there are no specific times or hours under statute or rule which an employee is required to work, and since a congressional staffer's hours may be irregular, that a staffer's "free time" may occur during what might be considered the conventional work day:

> As to the allegation regarding campaign activities by an individual on the clerk hire rolls of the House it should be noted that due to the irregular time frame in which the Congress operates, it is unrealistic to impose conventional work hours and rules on Congressional employees. At some times these employees may work more than double the usual work week—at others, some less. These employees are expected to fulfill the clerical work the Member requires during the hours he requires and generally are free at other periods. If, during the periods he is free, he voluntarily engages in campaign activity, there is no bar to this. There will, of course, be differing views as to whether the spirit of this principle is violated but this committee expects Members of the House to abide by the general proposition. Advisory Opinion No. 2, July 11, 1973.

In addition to the standards cited above it is significant to note that House regulations specifically require that a Member, a committee chairman, or a House officer certify each month to the House Finance Office as to the "regular performance of official duties" by the employee for whom the pay is being claimed before such pay will be disbursed.[8] Citing these requirements and the rules discussed above, the "Ethics Manual for Members and Employees of the House of Representatives," House Committee on Standards of Official Conduct, similarly noted that staff employees in the House are thus considered to receive payment from public funds for the "regular performance of official duties commensurate with the compensation they receive," rather than merely for "non-official political campaign activities on behalf of a Member," and thus a staffer may engage in political activities "on his own free time" once the employee has "completed the official duties assigned to him. . . ." Ethics Manual, chapter 8.

Professional staff of the committees of the House are subject to provisions which restrict them from engaging in any work other than committee business. The legislative history of this restriction does not indicate that it was intended to bar professional staff of House committees from engaging in general campaign activities on their own time. However, the restrictions may work to prohibit such professional staffers from performing campaign duties for individual Members during normal working hours. The Rules of the House of Representatives at Rule XI, clause 6(a)(3)(B) and (C), state as follows:

> (3) The professional staff members of each standing committee
>
> * * * * * * *
>
> (B) shall not engage in any work other than committee business; and
>
> (C) shall not be assigned any duties other than those pertaining to committee business.

It should also be noted that the clerical staff of the committees are instructed by House Rules to perform clerical duties "on matters related to committee business." House Rule XI, clause 6(b)(1) and (2).

No specific interpretation of, or ruling upon, these provisions has been found and questions have arisen as to whether the prohibition barring professional staff from engaging in "any work other than committee business" would preclude those employees from engaging in outside political activity in addition to their congressional employment, particularly in light of the intended professional status of these individuals and their employment with a committee rather than with an individual Member of the House. Research into the legislative history of this provision which originated from the Legislative Reorganization Act of 1946, 60 Stat. 812, however, has failed to reveal specific congressional intent to apply the prohibition in question to off-hours activity by professional committee staffers. Rather, it appears that the prohibition was intended to insure that professional staff members of committee would work exclusively on committee business during their congressional working hours, as opposed to performing "other congressional office duties." S. Rept. 1011, 79th Cong., 2d Sess. 10. This was apparently to insure a continuing full time professional staff of experts for the standing committees of Congress. See 92 *Cong. Rec.* 6442 (1946). Although these provisions may prohibit the performance of political campaign duties by professional staff employees of committees for individual Members during normal working hours, their legislative history does not indicate that committee professional staffers would specifically be prohibited from engaging in campaign activities during weekend, evening or other off-duty hours.

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[8] Committee on House Administration, "Regulations and Accounting Procedures for Allowances and Expenses of Committees, Members and Employees of the U.S. House of Representatives," Part II, C, 2 and Part III, B, 2(a).

d. Official Duties Versus Campaign Activities

Although the ethical standards, guidelines and rules of the House and Senate discussed above generally permit "campaign" activities on behalf of a Member once staffers have fulfilled their "official" duties, there are generally no specific job descriptions for committee or Member staff in the House or the Senate which are comparable to the job descriptions currently in force in the civil service. There is therefore no detailing of what a staffer's "official" duties may entail, or precisely what activities are involved in or excluded from assisting a Member with his "official and representative" duties. Traditionally, the specific duties of a Member's staff are within the discretion of the employing Member to best meet the Member's needs and those of his constituents. As to the exercise of this discretion, however, the United States Court of Appeals for the District of Columbia, in upholding a conviction of a Member of Congress for using clerk hire appropriations to compensate individuals who performed mostly non-congressional duties, agreed with expert testimony that it is "within a congressman's discretion to define the parameters of an employee's responsibilities as long as those responsibilities relate to the congressman's 'official and representative' duties". *United States* v. *Diggs,* 613 F.2d 988 at 997 (D.C. Cir. 1979), *cert. denied* 446 U.S. 982 (1980).

The general distinction between "official" legislative and representative duties on the one hand and "campaign" activities on the other is a traditional distinction of long-standing in Congress. In the use of the Member's franking (free mailing) privilege Members may frank official mail matter but may not send political campaign material under the frank. The franking statute and regulations instruct Members and staff that it is permissible to frank materials relating to "conduct of the official business, activities, and duties of the Congress" . . . covering "all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working or operating of the Congress and the performance of official duties in connection therewith. . . ." (39 U.S.C. § 32109a)(1) and (2)), but that the frank is not available for sending material complimentary or laudatory of a Member on a purely "political basis rather than on the basis or performance of official duties" nor material "which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office" (39 U.S.C. § 3210(a)(5)(A) and (C)). In upholding the franking statute against a constitutional challenge, a three judge panel of the District Court for the District of Columbia noted that Congress had drawn a statutory distinction between "official mailings, those related directly to the legislative and representative functions of Congress," and "unofficial" mailings such as political material. *Common Cause* v. *Bolger,* 574 F.Supp. 672, 683 (D.D.C. 1982). The Court stated: "It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection. The details of the franking scheme, including its distinction between official and unofficial mailings, appear to be rationally designed to work for that end." *Id.*

Similarly, in the tax treatment of political contributions received by candidates and Members of Congress, if such contributions received by Members and candidates were used for campaign purposes, that is, the "exempt function" of a political committee, as that term had been defined, then no tax liability would extend to the Member-candidate or his political organization for the receipt and use of such campaign funds. 26 U.S.C. § 527. However, until a 1988 amendment to the tax code changed the treatment of the use of such funds, if political contributions had been used by a Member for "official" congressional purposes rather than campaign purposes,[9] then such money was treated as gross income to the Member, with a permissible off-setting business deduction for ordinary and necessary business expenses connected with carrying on one's official duties. 26 U.S.C. § 162, see Revenue Rulings 80-331 and 87-119.[10] This distinction between campaign activities and official duties is also recognized and inherent in congressional rules and regulations such as the respective House and Senate Rules on unofficial office accounts (House Rule XLV; see H. Doc. No. 95-73, 95th Cong. 1st Sess. 16-17, discussing proposal of this rule; Senate Rule 38 and S. Rept. 95-49, 95th Cong., 1st Sess. 11, 46), and the Senate Rule on computer facilities (Senate Rule XL(5)), and in other statutory provisions such as the Federal Election Campaign Act (see 2 U.S.C. § 439a) and the provision of the franking law on "mass mailings" of newsletters and similar material (39 U.S.C. § 3210(f); see discussion in H. Rept. 96-281, 96th Cong. 1st Sess. 5).

Although the distinction between "official" duties and "campaign" activities is a common one in congressional matters, because of the various public, political and official roles which a Member may assume in connection with his position in Congress, there may be instances where this distinction is less clear than in others, or where one area may intrude into the other. As noted by the United States District Court in the franking case: "To state the obvious, it is simply impossible to draw and enforce a perfect line between the official and political business of Members of Congress". *Common Cause* v. *Bolger, supra* at 683.

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[9] As permitted in the Senate to some extent under Senate Rule 38, and under 2 U.S.C. § 439a, but prohibited for House Members at House Rule 45.

[10] But see now "TAMARA", Technical and Miscellaneous Revenue Act of 1988, P.L. 100-647, amending 26 U.S.C. § 527(e)(2) to include under "exempt function" business expenditures relating to holding public office.

Some confusion may initially be caused by the labelling of some of the official representatives duties of a Member of Congress as "political" in nature. The Supreme Court in a case concerning the immunity of Members from prosecution under the constitutional "Speech or Debate Clause," noted that in addition to the "purely legislative activities protected by the Speech or Debate Clause", there are representational duties of a Member of Congress which, although "appropriate" and "legitimate," might be characterized as "political in nature . . . because they are a means of developing continuing support for future elections," and which do not have "the protection afforded by the Speech or Debate Clause". *United States* v. *Brewster,* 408 U.S. 501, 512 (1972). These "appropriate" representational duties of Members of Congress may include "legitimate errands performed for constituents, the making of appointments with government agencies, assistance in securing Government contracts, preparing so-called 'newsletters' to constituents, news releases, and speeches delivered outside of Congress." *Id.* at 512. This distinction made by the Supreme Court, it should be noted, was for purposes only of coverage of the Speech or Debate Clause immunity, which the Court said went only to the official *legislative* duties of a Member, but not necessarily to the official representative functions of the Member.

Even though these constituent services and communications to constituents, which are part of the Member's legitimate representative duties, might arguably be characterized as "political in nature," they are generally distinghishable, as far as the congressional ethical principle involved, from those activities typically understood by congressional rule, statute, and practice to be political "campaign" activities, such as the solicitation of political contributions, canvassing votes for a candidate in a primary or general election, organizing a political fundraiser, coordinating campaign volunteer lists, etc. The Supreme Court in *Buckley* v. *Valeo* 424 U.S. 1 (1976), noted, that a particular statute in the federal campaign laws is specially directed at Congress' accommodating this distinction "between the legitimate and necessary efforts of legislators to communicate with their constituents" on the one hand, and "activities designed to win elections by legislators on their other role as politicians," on the other. *Id.* at 84, n. 112; see also *Common Cause* v. *Bolger, supra.*

There is some practical concern, however, expressed over the potential and arguably unavoidable, "overlap" or instrusion of some miminal campaign related activities into the official operation of a Member's office. In responding to official inquiries from the press or inquiries from constituents, congressional staffers may need to respond to questions dealing with issues or matters which relate to or bear upon a Member's political campaign as well as his official legislative and representative duties.[1] Similarly, scheduling assistance and information from the Member's official staff may be requested by the campaign staff to assure that the Member's campaign schedule does not conflict with his official agenda. Both ethics committees in Congress realize that some of this minimal overlapping may exist in the practical operation of a Member's office, and thus the Senate Select Committee on Ethics has noted that "there might be some inadvertent and minimal overlap" between the staff's official duties and activities related to a Member's campaign but that "a Senator has the responsibility to insure that such an overlap is of a de minimis nature and that staff duties do not conflict with campaign responsibilities." Interpretative Ruling No. 154, June 22, 1978. Similarly, the House Committee on Standards of Official Conduct has recognized that in a practical sense it may not be possible to have an absolute separation of duties during the work day but that the "Committee expects Members of the House to abide by the general proposition" that staffers are to work on campaign related matters during their "free time" after the completion of their official duties. Advisory Opinion No. 2, July 11, 1973.

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[1] "Answering questions about one's voting record is clearly part of a Senator's official responsibilities. The fact that he explains his voting record in response to a political attack does not turn such explanations into campaign activities." Senate Select Committee on Ethics, Interpretative Ruling No. 419, September 22, 1987.

To avoid some of the more serious problems which may arise by the performance of regular campaign responsibilities by a staff employee in the public payroll, the Senate Select Committee on Ethics has recommended on various occasions that when a staffer is to engage in campaign activities on behalf of the Member for any "extended" period or to any "substantial" degree that the Member either remove the staffer from the Senate payroll for that period and compensate the staff with campaign funds, or reduce the staffer's compensation from public funds commensurately with the reduction in official duties of the staffer during his time of increased campaign activities, Interpretative Ruling Nos. 3, 5, 59, 194, and 263. Congressional employees may also campaign on behalf of a Member of Congress while on established annual leave or other vacation time. See, for example, Senate Select Committee on Ethics, Interpretative Ruling Nos. 194, 263. There is no general prohibition in the House or the Senate on a congressional staffer receiving reimbursement or compensation from a campaign committee for campaign work performed on off-duty, non-official time, even while still on the congressional payroll and being compensated from official funds for the performance of official congressional duties. Note, for example, Senate Select Committee on Ethics, Interpretative Rulings Nos. 357, 402.

e. False Claims and Fraud: Federal Law

In addition to the congressional ethical standards and guidelines discussed, it is possible that legal implications may arise for Members and staff if individuals, compensated from public funds, perform no congressional duties or only a nominal percentage of official duties for such compensation, but rather mainly provide campaign services to the Member. It has been argued that since a Member makes a claim to the United States Government for the staffer's salary, and that since such salary is intended as compensation for assisting the Member in his "official" duties, then using that individual for other than the official purposes contemplated might provide a false claim, a false statement, or a fraud upon the government. This may be particularly relevant where the employing Member or committee chairman must certify in writing that the employee is regularly performing official duties. See, for example, House Administration Committee Regulations, *supra*.

There have been several *civil* suits initiated by private citizens under the False Claims Act (31 U.S.C. §§ 3729, 3730) against Members of Congress for compensating individuals from the clerk-hire or other staff allowances when those individuals allegedly did not perform any, or did not mainly perform, official congressional duties for such compensation. These civil suits, however, have generally been dismissed on jurisdictional or procedural grounds without a trial on the merits of the facts alleged.[12]

In *United States ex rel Joseph* v. *Cannon,* 642 F.2d 1373 (D.C. Cir. 1981), *cert. denied,* 455 U.S. 999 (1982), a three-judge panel of the United States Court of Appeals for the District of Columbia dismissed as a non-justiciable "political question" a civil suit under the False Claims Act initiated by a private citizen against a Member of Congress for making claims for a staffer's official salary when that staffer allegedly worked extensively and exclusively on the Member's reelection campaign for a period of time while continuing to receive a salary from appropriated funds. The Court of Appeals noted that "political questions are denied judicial scrutiny" because the courts are "underequipped to formulate national policies or develop standards of conduct for matters not legal in nature", *Id.* at 1379. The courts might thus find a non-justiciable political question where there is a "lack of judicially discoverable and manageable standards" for resolving an issue. *Id.* As to the use of senatorial staff on a Member's reelection campaign, the court found that the lack of specificity in the ethical guidelines existing in 1976 concerning "official" duties of Senate staff, and the failure of the Senate to promulgate a specific rule on campaigning by staffers at that time reveals the lack of firm standard during that period relevant to this case, and vividly portrays the keen difficulties with which courts would be faced were they to attempt to design guidelines on their own". *Id.* at 1380. Thus, the Court found that "in the absence of any disernible legal standard . . . we are loathe to give the False Claims Act an interpretation that would require the judiciary to develop rules of behavior for the Legislative Branch". *Id.* at 1385. In dismissing the action, the Court of Appeals warned that "[i]n doing so, we do not, of course, say that Members of Congress or their aides may defraud the Government without subjecting themselves to statutory liabilities." *Id.*

The Court of Appeals' warning concerning statutory liability for fraud is well taken considering past *criminal* actions against former Members of the House of Representatives for false statements and fraud involving the compensation of individuals from clerk-hire appropriations when such individuals performed few or no official congressional duties in return for that compensation. In the case of *United States* v. *Diggs,* 613 F.2d 988 (D.C. Cir. 1979), *cert. denied* 446 U.S. 982, (1980), the United States Court of Appeals for the District of Columbia upheld the conviction of a Member of the House for false statements (18 U.S.C. § 1001) and mail fraud (18 U.S.C. § 1341) for a scheme whereby individuals were being compensated from public funds, that is, clerk hire appropriations, but were performing only nominal official congressional duties. The Court of Appeals found that although the "employees" involved may have performed some official congressional services for the Member, "only a nominal percentage of [the employees'] responsibilities were congressionally related," and thus there was sufficient evidence for a jury to conclude that the employees were paid from the clerk hire allowance "with the intention of compensating them for services rendered to the [defendant's private business concern] or the defendant." *Id.* at 1002. Although it might be argued that "it was a matter of [the Member's] discretion to fix their duties and salaries as congressional employees," the "defendant's representations to the House Office of Finance that [the employees] were *bona fide* congressional employees were fraudulent and material in violation of 18 U.S.C. § 1001." *Id.*

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[12] *United States ex rel. Thompson* v. *Hays,* Civil Action Nos. 76–1068, 1132 and 1140; *United States ex rel. Martin-Trigona* v. *Daley,* Civil Action No. 1164 (D.D.C. 1976); *United States ex rel. Joseph* v. *Cannon* 642 F.2d 1373 (D.C. Cir. 1981), *cert. denied,* 455 U.S. 999 (1982); but see *United States ex rel. Hollander* v. *Clay,* 420 Supp. 853 (D D.C. 1976), concerning appropriations for transportation.

In a criminal action specifically involving campaign activities by persons compensated from clerk-hire funds, the Department of Justice in 1978 obtained a criminal indictment against a former Member of the House of Representatives, charging that the former Member while in Congress had defrauded the United States by placing 11 persons on his congressional payroll to pay them for operating and staffing various campaign headquarters in the former Member's reelection campaign. *United States* v. *Clark,* Criminal No. 78-207 (W.D. Pa. 1978)).

The indictment specifically charged violations of the mail fraud statute (18 U.S.C. § 1341), among other violations, for using the mails to send payroll checks in executing "a scheme and artifice to defraud the United States of America, and to obtain money and property by means of false and fraudulent pretenses, representations and promises. . . ." Grand Jury indictment, 2. The "scheme," as charged in the indictment, was that the defendant "would prepare and submit . . . clerk-hire allowance and payroll authorization forms to the Office of Finance of the House of Representatives which falsely represented that [certain named individuals] were bona fide employees of the defendant's congressional staff and that they were performing the type of services which entitled them to salaries stated in the clerk-hire forms," while willfully concealing that those named individuals were in fact placed on the House payroll "in order to pay them for their work in maintaining, staffing, and operating various campaign headquarters opened for the purpose of reelecting the defendant to Congress," Grand Jury indictment, 2-3. On February 13, 1979, the defendant/former Member of Congress pleaded guilty to the mail fraud and income tax evasion charges in this indictment in connection with those activities charged, and on June 12, 1979 was sentenced to two years in prison and fined $11,000.

United States v. *Pintar,* F.2d 1270 (8th Cir. 1980), did not involve Members of Congress and congressional employees, but did involve a fact situation where Federal monies in a Federal program were being used to pay persons for political campaign activities. In that case the court upheld a charge of a conspiracy to defraud the United States (18 U.S.C. § 371) where there was "strong evidence that the Pintars used [their authority] to direct employees whose salaries were funded by Federal grants to perform political work during office hours" (*Id.* at 1276), and that such concerted activities constituted a "scheme to impair, obstruct, defeat or interfere with lawful governmental functions." *Id.* at 1278.

The substantial conformance by Members and staff to the general ethical guidelines and principles established by the rulings and opinions of the House and Senate ethics committees regarding the limitation of regular campaigning by congressional staff to their own "free time" or "off-duty" hours may thus work to assist a Member in assuring that public appropriations are not being utilized merely to finance one's own political campaign, and that persons compensated from staff appropriations are in fact "bona fide" congressional employees, performing the official congressional duties contemplated in the appropriation of their salaries, to which the Member may have certified in writing. This would apparently prevent the types of abuses and misrepresentations concerning the misuse of staff appropriations and public funds which have led to criminal fraud charges against Members in the past.

f. Disclosure Under Federal Campaign Laws

To the extent congressional staff engage in any campaign activity on behalf of a Member, questions have arisen as to whether the official salary of the staffer must be disclosed as a contribution, expenditure, or other reportable information under 2 U.S.C. § 434. Section 434 requires that most contributions and expenditures to influence the nomination or election of a Federal candidate be reported. The Federal Election Commission (FEC), however, has determined that the official salaries of those who engage in campaign activities on behalf of an incumbent do not have to be reported. Specifically, the Commission considered the question of disclosure of an executive branch staffer's salary during the 1976 presidential election campaign. Complaints were filed with the Commission to question the use during that campaign of a White House office staff presidential counselor for campaign purposes. The Commission concluded that none of the complaints furnished evidence that the campaign activities of the presidential advisor occurred during his working time as counselor to the President. The Commission further concluded that campaign related personal services provided outside the normal workday are not contributions. See Federal Election Commission, MUR 077(76). Federal law specifically excludes from the definition of the term "contribution" the "value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee." 2 U.S.C. § 431(8)(B)(i).

During an audit of the House and Senate congressional campaign committees, the Congress determined that the value of free government office space which had been provided to those committees did not have to be reported to the FEC. The Commission concluded that the use of legislatively appropriated funds does not amount to a statutory contribution or expenditure. In reaching this conclusion, the Commission found that the United States Government is not a "person" as that term is used in the Federal election campaign laws and was consequently not intended to be subject to disclosure requirements.[13]

Under current interpretations by the Federal Election Commission, the salary paid from official funds to a staffer who on his own time voluntarily engages in campaign activity on behalf of a Member, or who engages in incidental or de minimis activities during working hours which might "overlap" or be arguably related to a Member's campaign, is not required to be reported.[14] It should be emphasized that in any event, as discussed earlier, under the standards and rulings in the House and Senate, a staffer should generally not be engaged in campaign activities during "official time" for which he is receiving compensation from appropriated funds.

2. Campaigning and Running For Elective Office

The permissible campaign activity by staff employees of Members of Congress includes running as a candidate for partisan elective office. A congressional staff employee is therefore not prohibited by statute or rule from running for delegate to party conventions, or for elective state, local or Federal office. The considerations discussed above concerning electioneering or campaigning during "free time", as opposed to "working hours" for which compensation is derived from the U.S. Treasury, would of course, apply to running for elective office as well as to campaign activity in general.

Although congressional employees are not expressly prohibited from running for elective office, they may effectively be barred from simultaneously holding a full-time elective office and retaining their congressional employment. Federal statutes such as those dealing with dual pay and dual employment, and precedents and constitutional provisions with regard to "incompatible offices" appear to eliminate the possibility of holding two, full-time paid positions or offices with the Federal Government.

As far as state, local, or any other outside positions, various Senate and House Rules concerning outside employment, conflicts of interest, the duties and work of professional committee staffers, compensation being commensurate with duties performed, place of employment, and standards and rulings regarding one's giving a full day's labor for a full day's pay, may severely restrict, and effectively prohibit, a congressional employee from holding an outside, full-time position. When a state or local elective position, however, is intended merely to be a part-time position, entailing only evening and weekend hours or intermittent duties, the potential "time" conflict with one's congressional employment may be eliminated. In such an instance, when there is no apparent incompatibility or "subject matter" conflict of interest between the state or local office and one's congressional employment, a congressional employee might be able to hold such a position when approval is received from his or her employing congressional office. For example, Interpretative Rulings by the Senate Select Committee on Ethics have permitted a full-time employee of a Member (the Member's press relations coordinator) to serve as a city council member at a salary of less than $200 a month. Interpretative Ruling No. 55, September 7, 1977. Similarly, the Committee ruled that if adjustments were made in the official congressional salary of a staff member to reflect the decrease in the congressional work performed by the staffer because of a new position held, and if a restriction of Senate duties were imposed if necessary to avoid conflicts of interest, the staffer could run for and hold a compensated elected office in the state legislature and still remain a Senate employee in the district office of the Member. Interpretative Ruling No. 109, March 23, 1978; see also Interpretative Ruling No. 155, June 28, 1978. Although Federal laws and rules might not prohibit such officeholding, state and local statutes and ordinances of the jurisdiction concerned should be examined, as those provisions often expressly prohibit an elected or appointed officer of the jurisdiction from simultaneously holding Federal office or employment.

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[13] Letter from Federal Election Commission Chairman Thomas E. Harris, dated September 28, 1977, to Senate Rules and Administration Committee, citing AO 1976-34, AO 1976-4, MUR 246(76). Available from Congressional Research Service files.

[14] Letter From Federal Election Commission Chairman Thomas E. Harris, dated September 13, 1977, to Senate Rules and Administration Committee. Available from Congressional Research Service files.

B. Campaign Funds and Finances

1. Political Contributions

There are specific restrictions within current Federal law upon congressional employees (as well as all other Federal employees) in the area of soliciting or making political contributions. Federal criminal statutes, amended by the Federal Election Campaign Act Amendments of 1979, Pub.L. 96-187, January 8, 1980, presently *prohibit* a congressional employee from: (a) *soliciting* a political contribution for a Federal campaign from any other Federal officer, employee, or person receiving a salary or compensation for services from the United States Treasury (18 U.S.C. § 602); and (b) *making* any political contribution to a Federal officer, employee, person receiving a salary from the United States Treasury, or Member of Congress who is the employer or employing authority of the congressional staffer (now 18 U.S.C. § 603).

The precise statutory language of these provisions reads as follows:

§ 602. Solicitation of Political Contributions.

> It shall be unlawful for—
>
> (1) a candidate for the Congress;
>
> (2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
>
> (3) an officer or employee of the United States or any department or agency thereof; or
>
> (4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contributions within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

§ 603. Making Political Contributions.

> (a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any

person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.

a. Soliciting Political Contributions from Federal Employees

The statute at 18 U.S.C. § 602, as amended, prohibits congressional employees from "knowingly" soliciting political contributions from any other Federal employee, officer, or person receiving salary for services from the United States Treasury. Inadvertent solicitations of Federal employees, therefore, such as when part of a general fund raising campaign aimed at the general public, was not intended to be a violation of this provision or its prdecessor. See 113 *Cong. Rec.* 25703 (1973). As stated in the House Report on the Federal Election Campaign Act Amendments of 1979, amending § 602:

> In order for a solicitation to be a violation of this section, it must be actually known that the person who is being solicited is a Federal employee. Merely mailing to a list will no doubt contain names of Federal employees [and] is not a violation of this section. H. Rept. 96-422, 96th Cong. 1st Sess. 25.

Unlike the statute prior to the amendments contained in the FECA Amendments of 1979, Pub.L. 96-187, the current § 602 prohibits only the "solicitation" of political contributions from other Federal employees and does not prohibit the "receipt" of such contributions. Therefore, under § 602 congressional employees may apparently receive *unsolicited* political contributions from other Federal employees (although Senate employees if not political fund designees are prohibited from such activity under Senate Rule 41, discussed below). As stated in the House Report on § 602: "The provision prohibiting receipt of contributions by Federal employees has been eliminated." *Id.*

Since the term "contribution" is defined for purposes of this restriction as that term is defined in § 301(8) of the Federal Election Campaign Act of 1971, the prohibition on soliciting contributions from fellow Federal employees will apparently not reach political contributions to support only state or local candidates. Section 301(8) of the FECA of 1971 is now codified at 2 U.S.C. § 431(8) and defines "contribution" to mean "any gift, subscription, loan, advance, or deposit or money or anything of value made by any person for the purpose of influencing any election for Federal office." (Similarly, since Senate Rule 41 restricts political fund activity relating only to Federal elections, Senate staffers would not be barred from soliciting and receiving voluntary contributions strictly for state or local candidates from fellow staffers or from other Federal employees).

In addition to prohibiting congressional employees from soliciting political contributions for Federal elections from other Federal employees, the statute likewise prohibits Members of and candidates for Congress from soliciting such contributions from Federal employees. Members of Congress may therefore not "solicit," but may now apparently accept *unsolicited,* voluntary contributions from

Federal employees. However, it should be noted that congressional staffers who are the Member's employees or under the employing authority of that Member are specifically *prohibited* from *making* even unsolicited, voluntary contributions to that Member of Congress, under 18 U.S.C. § 603, as amended by Pub.L. 96-187. As a practical matter, then, Members of Congress should not accept such contributions from their own employees.[15]

The intent of the prohibition on solicitations, as discussed by its sponsors, was to prevent Federal employees from being "subject to any form of political assessment". 125 *Cong. Rec.* 36754, December 18, 1979. Since the statute is directed at protecting employees who, because of their employment and positions may be subject to coercion, the prohibition of § 602, as noted in the discussion prior to the adoption of the 1979 amendments, "does not apply to solicitation of Members of Congress." *Id.* This interpretation is consistent with the interpretation of the predecessor statute to 18 U.S.C. § 602 which, as noted in a resolution adopted by the House in the 63rd Congress, 2d Session (1913), "should not be construed to prohibit one Senator or Member of Congress from soliciting campaign contributions from another Senator or Member of Congress". See VI *Cannon's Precedents of the House of Representatives,* § 401, at 571-573; see also H. Rept. 99-277, 99th Cong., 1st Sess., 13-14 (1985), House Committee on Standards of Official Conduct.

The Department of Justice has also included in the past, and the House Committee on Standards of Official Conduct has agreed with that assessment, that in the exercise of prosecutorial discretion, the application of the statute in a criminal context would focus on "coercive" contributions, and indications of political "shakedowns." See, for example, U.S. Department of Justice, *Federal Prosecution of Election Offenses* 15 (October 1980); H. Rept. No. 99-277, *supra* at 4, 13-14. It should be emphasized, however, that the plain language of the statutory prohibition does not expressly require this element of the offense, that is, does not expressly require coercion, and no judicial interpretation of the law has yet expressly added such an element as being required in the indictment or proof to establish a violation, although the cases have indicated that the underlying intent and ultimate objective of the statute, similar to the Hatch Act restrictions on voluntary political activity, was to protect employees from less-than-voluntary political conduct.[16] Finally, in this regard, it should be noted that an employer-employee, or supervisor-supervisee relationship, might in itself arguably provide an initial presumption or indication of a coerced political solicitation; and even where solicitations are made by non-supervisory coworkers, if made during working time, fellow employees might conclude that the solicitation represented the interests of those higher in the organization and thus the element of coercion could be present.[17] In light of these factors, and the express language of the criminal statute prohibiting such activity, the more cautious course of conduct for congressional employees would be to avoid any knowing and intentional solicitation of political contributions for a federal election from any other Federal employee.

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[15] Under the former statute, Members of Congress were also prohibited from *receiving* contributions from Federal employees, including their staff, even where no solicitation of the contribution was shown. See *Brehm* v. *United States,* 196 F.2d 769 (D.C. Cir.), *cert. denied.,* 344 U.S. 838 (1952), upholding conviction of Member of Congress for receiving campaign contributions from staff even without specific finding of solicitation. *Id.* at 770. This provision was amended to its present form in 1979.

[16] In *Ex Parte Curtis,* 106 U.S. 371, 374 (1982), the Supreme Court found that an earlier version on the ban on contributing to and soliciting from Federal employees extended even to noncoercive activities since "what begins as a request may end as a demand. . . ". In *Brehm v. United States,* 196 F.2d 769 (D.C. Cir. 1952), *cert. denied,* 344 U.S. 838, a Member of Congress was found in violation of statute for receiving contributions from staff even where grand jury was presented testimony that staffer voluntarily initiated offer of contributions. 196 F.2d at 770-771. See also *United States v. Wurzbach,* 280 U.S. 396 (1930), where "coercion" was not specifically alleged or proven in Member's reciept of contributions from Federal employees, and where court found the law "clearly embraces the acts charged."

Making Political Contributions

Prior to the Federal Election Campaign Act Amendments of 1979, effective January 8, 1980, congressional employees and other employees of the Federal Government were prohibited from making political contributions to any other Federal officer, employee, or Member of Congress, regardless of whether such individual was the contributor's employer or employing authority.[18] Although in practice there was no strict enforcement of the statute,[19] such a restriction on employees had been on the statute books in some form since 1883. See section 14 of the Pendleton Act, 22 Stat. 403.[20]

Under the current statutory provision now codified at 18 U.S.C. § 603, however, congressional employees are only prohibited from making political contributions to their "boss", that is, their employer or employing authority. As explained in the House Report on the Federal Election Campaign Act Amendments of 1979, Pub.L. 96-187, political contributions would be barred from a Member's staff to that Member, and from committee staff to the chairman of that committee. Persons employed by the minority of a committee are also barred from contributing to the ranking minority member of the committee, as well as to the chairman:

> Section 603 has been amended to allow voluntary contributions from federal employees to other federal employees. If, however, the individual is employed by a Senator, Representative, or Delegate or Resident Commissioner to Congress that employee cannot contribute to his or her employer although voluntary contributions to other Members of Congress would be allowed. An individual employed by a congressional committee cannot contribute to the chairman of that particular committee. If the individual is employed by the minority that indi-

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[17] See as an analogy "Hatch Act" cases on coerced political contributions from federal and state employees, for example, *In the Matter of Hawkins* (CSC No. F-1349-52), and *Wolfstein* (CSC No. S-11-42), 2 P.A.R. 23, 26 (1942); *In the Matter of Mulhair* (CSC No. F-1349-52), 1 P.A.R. 607, 609 (1952). The threat of depriving any Federal job or any Federal benefit or appropriation to coerce political contributions is a specific violation of 18 U.S.C. § 601.

[18] See 18 U.S.C. §607, (1976); note letter from Attorney General to House Judiciary Committee, October 14, 1952, discussed in "Congressional Quarterly Weekly Report", Oct. 19, 1952, at 1021; S. Rep. No. 500, 95th Cong. 1st Sess. 5-6; Federal Election Commission, Commissioner's Memorandum No. 1434, August 25, 1977, at 2; H.R. Doc. No. 96-134, 96th Cong. 1st Sess. 116-118.

[19] See letter from Assistant Attorney General, Criminal Division, Fraud Section, Department of Justice, August 12, 1974. Available from Congressional Research Service files.

[20] Similar restrictions on some Federal employees have been upheld against constitutional challenges alleging interference with employees' political rights (*Ex Parte Curtis, supra,* and *United States v. Wurbach, supra*), as have those restrictions on general campaign activities by executive branch employees who come within the "Hatch Act" (*United Public Workers v. Mitchell,* 330 U.S. 75 (1946); *United States Civil Service Commission v. National Association of Letter Carriers,* AFL-CIO 413 U.S. 458 (1973).

> vidual cannot contribute to the ranking minority member of the committee or the chairman of the committee. H. Rept. 96-422, 96th Cong., 1st Sess. 26.

In addition to permissible contributions by congressional staff to a candidate, including a Member of Congress, who is *not* the employer or employing authority of the staffer, congressional employees may contribute to a committee or an organization which is not an "authorized committee" of the staffer's employer or employing authority. An "authorized committee" of a candidate is one which is designated in writing by the candidate to accept contributions and make expenditure on his behalf (see 18 U.S.C. § 603(b), 2 U.S.C. § 432(e)(1), as amended by Pub.L. 96-187), and includes the candidate's principal campaign committee. Generally, under Federal campaign law, a multicandidate committee, that is, one which supports more than one Federal candidate, may not be designated as an "authorized committee" of a candidate (2 U.S.C. § 432(e)(3)). Therefore, congressional staffers may generally make political contributions to multi-candidate political committees, such as the Democratic or Republican Congressional Campaign Committees or the Republican or Democratic National Committee, even though some of the proceeds received by such committees may eventually be expended for the benefit of the contributor's employer. In making such contributions to multi-candidate committees, however, the staffer should not specifically "earmark" the contribution for use only in the campaign of his employer, since such "earmarking" of a contribution may be considered as a contribution from the staffer/contributor to that Member/candidate (see Regulations of Federal Election Commission, 11 C.F.R. § 110.6), and thus a potential violation of the criminal prohibition on contributions to one's employer or employing authority.

For purposes of the current restrictions on contributions by congressional staffers, the term "contribution" is defined as in 2 U.S.C. § 431(8) (§ 301(8) of the Federal Election Campaign Act, as amended). Specifically excluded from the term "contribution" is the value of voluntary services by an individual provided a candidate or committee. See § 301(8)(i) of the FECA, as amended. A congressional staffer may, therefore, voluntarily provide his services, his own free time, and his assistance to a Member's campaign, even his employer's campaign, without violating the prohibition on making campaign "contributions" to one's employer.

The definition of the term "contribution" under Federal campaign law also demonstrates that the prohibition goes only to the contribution of things of value in connection with a Federal election campaign (2 U.S.C. § 431, § 301(8)(A)(i)) of the FECA as amended). A congressional staffer may, therefore, make a political contribution to an officer or employee of the Federal Government for purposes of influencing the election or defeat of a candidate to state or local office.

2. Fundraising Dinners and Testimonials

Fundraising dinners and testimonials are common methods for candidates to raise money for an upcoming political campaign, or to pay off previous campaign debts. The money paid for a ticket to such an event is generally considered under Federal law as a campaign contribution from the purchaser of the ticket to the candidate on whose behalf the event is being held. See 2 U.S.C. § 434, as amended, note explanation in H. Rept. 96-422, 96th Cong., 1st Sess. 16, to accompany FECA Amendments of 1979; see Internal Revenue Service, Revenue Ruling 72-412 (TIR 1191), 1972-2 CB-5; see also House Rule XLIII, paragraph 7.

Since the purchase of a ticket to a fundraiser or testimonial would generally be considered a political contribution to the candidate involved, a congressional employee should not under the provisions of 18 U.S.C. § 603, as amended, purchase such a ticket or contribute money to a fundraiser or testimonial given for the Member who is the staffer's employer or employing authority.

Although a congressional employee should not attend such a fundraiser or testimonial as a paying guest, the employee could apparently attend as a nonpaying guest without violating provisions against making political contributions to one's employer. Furthermore, a congressional employee may also volunteer his or her own free time to work on the fundraiser or testimonial for the Member's campaign since voluntary services are not considered "contributions" under Federal campaign law. § 301(8)(B)(i) of the FECA, as amended. (Senate employees, however, are prohibited from being involved in the solicitation, receipt, disbursement, or in being the custodian of any campaign funds for use in a Federal election unless such employee is one of two persons specifically designated by a Senator to handle campaign funds. Unless so designated, a Senate employee should not be involved in that part of a fundraiser, but may be involved in the planning, arrangement making, etc., of the event. Senate Select Committee on Ethics, Interpretative Rulings Nos. 3, 5, 22, and 88).

Finally, although a congressional employee could not contribute to a fundraiser or testimonial on behalf of his or her boss, or purchase a ticket to it, the employee might arguably be permitted to "host" such a fundraiser or dinner at his or her residence without violating the Federal campaign laws. The definition of the term "contribution" within the campaign laws exempts certain costs in connection with a fundraising event on behalf of a candidate held on an individual's residential premises, up to an amount of $1,000 per any election. Expenses included in the $1,000 exemption are the cost of invitations, food, and beverages. See 2 U.S.C. § 431(8)(B)(ii), amended by the FECA Amendments of 1979, Sec. 301(8)(B)(ii) of the FECA.

3. Campaign Fund Activity by Senate Employees

As discussed briefly above, Senate Rules restrict campaign fund activity by Senate officers and employees. Senate Rule XLI prohibits most Senate officers and employees from "handling" any campaign funds for a Federal election. An employee or officer of the Senate may therefore not receive, solicit, be the custodian of, or distribute campaign funds of any Federal candidate, except that three assistants may be designated by the Senator to perform such activities on behalf of that Senator, or for a committee or organization established and controlled by a Senator or a group of Senators.

The Select Committee on Ethics has found under the Rule that Senate employees may not "solicit others to solicit funds or otherwise become involved to any substantial degree in political fund activity." Interpretative Rulings Nos. 326, July 1, 1980; and 25, June 2, 1977.

The relevant portion of Rule XLI states as follows:

> ## RULE XLI
>
> ### POLITICAL FUND ACTIVITY; DEFINITIONS
>
> 1. No officer or employee of the Senate may receive, solicit, be a custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to three assistants to a Senator, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who are compensated at an annual rate in excess of $10,000 if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XXXIV for each year during which he is designated under this rule. The Majority Leader and the Minority Leader may each designate an employee of their respective leadership office staff as one of the 3 designees referred to in the second sentence. The Secretary of the Senate shall make the designation available for public inspection.

The Senate Rule on campaign fund activities by Senate employees had originally been interpreted to permit the designated employees of the Senator to handle campaign funds for a Federal campaign *only* on behalf of the Senator designating them. Senate Select Committee on Ethics, Interpretative Rulings Nos. 32, 45, 222, and 223. However, the rule is now interpreted to permit the three designated employees of the Senator to handle campaign funds on behalf of a committee for any individual for elective Federal office, as long as the committee is controlled by a Senator or a group or Senators, and the employing Senator gives his permission. Interpretative Ruling No. 387, September 17, 1987. The three designated employees, with the permission of their employing Senator, could therefore be involved in the solicitation, receipt, distribution, or in being the custodian of campaign funds on behalf of a Senator's principal campaign committee, or for multi-candidate political committees or political action committees which are involved in the federal campaigns of persons other than their employing Senator, as long as the committees are established and controlled by a Senator or group of Senators. Employees may not handle funds for committees set up by trade associations, interest groups, corporations or labor organizations.

A Senate employee, even a political fund designee, could not hold a position of chief executive officer of a state political party committee, since the duties of the position would entail in the normal course of business "the acceptance, solicitation, retention or expenditures of funds in connection with Federal elections" and for federal candidates other than the employee's supervising Senator (Interpretative Ruling No. 291, November 26, 1979), and such committee is not established and controlled by a Senator. However, the Senate Select Ethics Committee found that a campaign fund designee could hold a position as a national party chairperson for one's state when the duties concerning political funds were not of a similar nature to those described above. Interpretative Ruling No. 326, July 1, 1980.

The restriction on employees of the Senate in Rule 41 does not extend to fundraising activity or campaign finance activity in relation to strictly state or local political contests. Interpretative Ruling No. 204, December 5, 1978; and No. 182, September 29, 1978. The Senate Select Committee on Ethics has made it clear, however, that "the State and local political fund activity must be clearly separate and distinct from any activities in connection with a Federal election in order to be permitted under the Rule." Interpretative Ruling No. 291, November 26, 1979; see also Interpretative Ruling No. 326, July 1, 1980.

4. Campaign Activity In a Federal Building

When congressional employees become involved in campaign financing activities, an important consideration is a provision now codified at 18 U.S.C. § 607, as amended by Pub.L. 96–187, January 8, 1980, which restricts the solicitation or receipt of political contributions in Federal buildings or other Federal facilities. The amended and renumbered version of the prohibition states as follows:

Section 607. Place of Solicitation.

> (a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Although prohibiting the receipt or solicitation of campaign contributions in a Federal building, the amended statute recognizes that it is often unavoidable that unsolicited campaign contributions will be received through the mail or a contribution by a supporter will be tendered in person, within a congressional office. When this situation occurs the statute specifically provides that a staff employee of a Member of Congress may accept the contribution as a transmittal for subsequent forwarding, within seven days of receipt, to an appropriate campaign organization outside of the congressional office. This provision of 18 U.S.C. § 607 states as follows:

Section 607.

> (b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facili-

> ty referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

The prohibition of this statute and the exception to it were discussed on the floor of the Senate prior to the adoption of this provision as part of the Federal Election Campaign Act Amendments of 1979:

> Solicitation or receipt of contributions in any room or building occupied by a Federal employee in the course of official duties is prohibited. The sole exception is for contributions received by an individual on the staff of a Member of Congress, provided the contributions are transferred to the Member's political committee within 7 days. This exception is intended to cover situations in which a contributor, although not requested to, mails or delivers a contribution to a Federal office. The exception does not authorize solicitations from a Federal office, nor does it permit receipt of contributions in a Federal office where such contributions have been solicited in any manner which directs the contributor to return contributions to a Federal office. 125 *Cong. Rec.* S19099-19100 (daily ed. Dec. 18, 1979) remarks of Sen. Hatfield.

As for the act of soliciting contributions from a congressional office, it should be noted that while this criminal prohibition has thus far not specifically been construed by the courts to prohibit the solicitation of campaign contributions from a Federal building by letter or telephone to persons who are not located in a Federal building, such activities would be barred by other provisions of law and regulation relating to appropriations and official allowances. The criminal prohibition at section 607 was originally intended and was historically construed to prohibit anyone from soliciting contributions from Federal clerks or employees while such persons were in a Federal building. See Pendleton Act, 22 Stat 403, 407, 14 *Cong. Rec.* 640, 865; note specifically 62 Stat. 722, 18 U.S.C. § 603 (1948); see H. Rept. 305, 89th Cong. 1st Sess. A51. In interpretations of this provision, the focus of the prohibition has been directed to the location of the individual from whom a contribution was requested, rather than the location from which the solicitation had originated. In 1908 the Supreme Court had occasion to interpret the statute which was the predecessor of the current § 607. The Court in *United States* v. *Thayer,* 209 U.S. 39 (1908), stated that the act of "solicitation" is completed, and therefore, arises, at the location where the request for a contribution is received by the person to whom the request is made. The Court stated: ". . . the solicitation was in the place where the letter was received." *Id.* at 44. The Department of Justice has noted that the statute was intended to fill a gap in protecting Federal employees from assessment by prohibiting all persons from soliciting such employees while they are in a federal building. Although under this interpretation questions could possibly be raised as to the criminal provision's technical coverage of solicitations from a congressional office which are directed to persons who are not in a Federal building, the House Committee on Standards of Official Conduct has stated clearly that regardless of the target of the solicitation or its coercive nature, "no activities of a political solicitation nature should occur with the support of any Federal resources (staff or space) in order to avoid any question that a violation of 18 U.S.C. § 607 has occurred." [21]

Despite questions which may be raised concerning solicitations under § 607, other provisions of the United States Code, as well as congressional regulations governing allowances, generally specify that amounts provided a Member of Congress from appropriated funds for such things as telephone, mail, office, space, stationery, etc., are for the use of such items only for "Official" or "strictly official" purposes. [23] These provisions would thus apparently work to bar the use or conversion of such supplies, equipment, or facilities for "campaign" purposes, rather than for "official" congressional business. As discussed earlier in this report with respect to the official allowances for congressional staff, the use of official allowances or supplies, services, or goods secured by such allowances, for other than the official purposes for which the appropriations were made, or for other purposes than those which the Member had certified or documented in vouchers, might possibly subject a Member to a number of legal liabilities concerning false claims, fraud or possibly even conversion or theft.

The ethics committees in both the House and the Senate have thus found that general campaign or campaign fund activities should be conducted outside of the official office space provided Members of Congress, and should generally be conducted with equipment, supplies or other facilities which are secured by private funds or contributions and not official congressional allowances or appropriations.

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[21] "Dear Colleague" letter from House Committee on Standards of Official Conduct, November 21, 1985, at 2.

[22] See for example 2 U.S.C. §§ 42a, 43a, 46g, 46g-1, 56–59, 122a, among others, as well as regulations issued by the Committee on House Administration and the Senate Committee on Rules and Administration governing use of official allowances.

c. Quick Reference List of Specific Campaign Prohibitions

1. General

A staff employee *may not:*

(1) Deprive, attempt to deprive, or threaten to deprive anyone of employment or any other benefit, provided for or made possible by an Act of Congress appropriating relief funds because of that person's political affiliation. 18 U.S.C. § 246.

(2) Make or offer to make an expenditure to any person either to vote or withhold one's vote or to vote for or against any candidate in a Federal election. 18 U.S.C. § 597.

(3) Solicit, accept, or receive an expenditure in consideration of his vote or the withholding of his vote in a Federal election. 18 U.S.C. § 597.

(4) Use any appropriation by Congress for work relief, relief, or for increasing employment, or exercise any authority conferred by an appropriations act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote. 18 U.S.C. § 598.

(5) If a candidate, directly or indirectly promise or pledge the appointment of any person to any public or private position or employment, for the purpose of procuring support of one's candidacy. 18 U.S.C. § 599.

(6) Promise employment or any other benefit provided for or made possible by an act of Congress as reward for political activity or support. 18 U.S.C. § 600.

(7) Furnish, disclose, or receive for political purposes the names of persons receiving relief payments under any act of Congress. 18 U.S.C. § 605.

(8) Make any expenditure for any general public political advertising which anonymously advocates the election or defeat of a clearly identified candidate. 2 U.S.C. § 441d.

(9) Fraudulently misrepresent oneself as speaking or acting on behalf of a candidate. 2 U.S.C. § 441h.

2. Soliciting or Receiving Campaign Contributions

An employee *may not:*

(1) Promise to use support or influence to obtain Federal employment for anyone in return for a political contribution. 18 U.S.C. § 211.

(2) Cause or attempt to cause anyone to make a political contribution by means of denying or threatening to deny any governmental employment or benefit provided for or made possible, in whole or in part, by any act of Congress. 18 U.S.C. § 601, as amended by Pub.L. 94-453.

(3) Solicit political contributions from any other Federal employee or any "person receiving any salary or compensation or services from money derived from the Treasury of the United States." 18 U.S.C. § 602, as amended by Pub.L. 96-187.

(4) Solicit or receive political contributions from persons known to be entitled to or to be receiving relief payments under any act of Congress. 18 U.S.C. § 604.

(5) Intimidate any Federal officer or employee to secure political contributions. 18 U.S.C. § 606.

(6) Solicit or receive political contributions in a Federal building, other than unsolicited contributions transferred to a political committee within seven days. 18 U.S.C. § 607, Pub.L. 96-187, amending and renumbering former 18 U.S.C. § 603 (1976).

(7) Knowingly accept a contribution in excess of limitations under Federal law of $1,000 to a candidate from any person, and $5,000 to a candidate from multi-candidate committees. 2 U.S.C. § 441a(a), added by Pub.L. 94-283.

(8) Accept or receive any political contributions from the organizational or treasury funds of a national bank, corporation, or labor organization. 2 U.S.C. § 441(b) (contributions from separate segregated funds of these organizations may be received).

(9) Knowingly solicit contributions from Federal government contractors (2 U.S.C. § 441(c)).

(10) Solicit, accept, or receive a contribution from a foreign national. 2 U.S.C. § 441e.

(11) Knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f.

(12) If a Senate employee, receive, solicit, be custodian of, or distribute any campaign funds for Federal elections *unless* the employee is one of three assistants whom the Senator has designated to perform such functions, the employee is compensated at a rate in excess of $10,000 per annum, the Senator's designation has been made in writing and filed with the Secretary of the Senate, and the employee files an annual financial disclosure statement. Rule XLI, Standing Rules of the Senate (1977).

3. Making Political Contributions

A staff employee *may not:*

(1) Make a political contribution to any Member of Congress or Federal official who is the employer or employing authority of the congressional staffer. 18 U.S.C. § 603, Pub.L. 96-187, amending and renumbering 18 U.S.C. § 607 (1967).

(2) Make a cash contribution in excess of $100. 2 U.S.C. § 441g.

(3) Make contributions in excess of $1,000 per election to any candidate, $5,000 per calendar year to a political committee, and $20,000 to a national party committee per year, or make contributions aggregating over $25,000 per calendar year. 2 U.S.C. § 441a(a).

(4) Make a contribution in the name of another. 2 U.S.C. § 441f.

(5) Make contributions or expenditures in excess of $100 other than by contribution to a committee or candidate, without filing a report with the Federal Election Commission. 2 U.S.C. § 434(e).

PART V

BRIEF DESCRIPTION OF THE EFFECT OF THE NEW ETHICS LAW ON EMPLOYEES OF THE SENATE

V. BRIEF DESCRIPTION OF THE EFFECT OF THE NEW ETHICS LAW ON EMPLOYEES OF THE SENATE *

A. Gifts

Several provisions of the new ethics and pay package recently signed into law (Pub.L. 101-194), will affect and change the ethics rules for committee and Member staff of the Senate. This report is intended to provide a brief overview and summary of changes in several areas of ethics and conflict of interest regulation for Senate employees.

The legislation made certain changes in the Senate gift rule, but preserved the current prohibition on gifts aggregating over $100 in a year from "prohibited sources", that is, from registered lobbyists, their directors and employees; from organizations maintaining a political action committee, including such organization's directors, or employees who are employed to influence legislation; and from foreign nationals representing a foreign entity. See Senate Rule XXXV; Section 901(a)(1) of Pub.L. 101-194.

A new restriction is added which prohibits the receipt of gifts from *anyone,* other than a relative, which aggregate over $300 in a year. Section 901(a)(2) of Pub.L. 101-194.

The limitations on gifts do not apply to gifts from relatives, gifts which have a value of less than $75 (up from $35 under the old rule), nor to gifts of personal hospitality. Section 901(a)(5). Entertainment expenses, however, will now be considered a gift under the Senate rules. The term "gift", in addition to current exceptions which exclude such things as food or beverages consumed, does not include reimbursement for "necessary expenses" (Section 901(a)(6)), which means that "reasonable expenses for food, lodging or transportation" incurred in connection with services provided for, or participation in, an event sponsored by the person providing the expenses may be accepted without regard to the gifts rule. "Necessary expenses", however, may not include entertainment; may not be received in a continuous period for more than 3 days (and 2 nights) for domestic travel, and 7 days (and 6 nights) for foreign travel; and may not be accepted for anyone else other than the spouse of a Member or employee, or one Senate employee acting as an aide to a Member. Section 901(b).

The existing law prohibiting Federal employees from giving gifts to superiors, and prohibiting superiors in the Federal service from accepting such gifts (5 U.S.C. § 7351), has been amended to allow the Office of Government Ethics in the executive branch to provide exceptions for special occasions such as marriage or retirement. Section 301.

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A new statutory prohibition on gifts to Federal employees has been added which codifies in law the regulations which have been applicable to executive branch employees since 1965. This new law, to be codified at 5 U.S.C. § 7353, prohibits any Federal officer or employee, including Members of Congress, from receiving any gift of any amount from someone who is seeking action from, doing business with, or is regulated by one's agency, or whose interests may be substantially affected by the performance or nonperformance of one's official duties. The Senate Select Committee on Ethics and the Senate as a whole may make exceptions to this restriction, and may issue regulations setting out circumstances under which gifts may be accepted. The Senate Rule on gifts discussed above appears to have been intended to contain those exceptions and circumstances concerning the receipt of gifts in the Senate.[1]

B. Outside Earned Income

The new rules and regulations on outside earned income and professional services enacted under this ethics package do *not* apply to employees of the Senate. See Section 601, "definitions", adding Section 505 to the Ethics in Government Act of 1978. Staff employees of the Senate remain subject to the conflict of interest regulations and prohibitions established by Senate Rule XXXVII, including prohibitions on conflicting or incompatible outside employment; restrictions on unauthorized outside employment; prohibitions on service on the board of directors of business entities by some Senate staff; and the restrictions on affiliation with a firm for providing professional services, and practicing a profession during Senate hours for compensation by Senate staff earning over $25,000 in Senate salary. See Senate Rule XXVII, clauses (2), (3), (5), and (6).[2]

The new prohibition in the law on the receipt of honoraria, to take effect in 1991, will also *not* apply to Senate staff. As such, while the overall amount a Senator may receive in honoraria will be reduced under the law, employees of the Senate are not, and will not under the new law be, prohibited from receiving honoraria for speeches, appearances or articles, which are otherwise consistent with Senate Rules on conflicts of interest, as long as an honorarium does not exceed $2,000 per event. 2 U.S.C. § 441i.

C. Financial Interests: Conflicts and Disclosure

A new conflict of interest provision has been added to the Senate Rules by this legislation which prohibits any Senate employee, who is required to file a financial disclosure report under the Ethics in Government Act of 1978 (generally those compensated at a rate of a GS-16 or above), from contacting a Federal agency on any nonlegislative matter which affects any person or entity in which that employee has a significant financial interest. This disqualification rule will not apply if the employee first advises his or her supervisor of the financial interest, and receives a written waiver filed with the Select Committee on Ethics that the employee's participation is necessary. Section 903. The existing and current conflict of interest regulations under the Senate Rules concerning, for example, prohibitions on working on legislation affecting only the personal financial interests of the employee or of a limited class of persons among whom the employee is one, and the requirement of divestiture of conflicting assets by certain committee staff (see Senate Rule XXXVII, clauses 4 and 7), are still in force.

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[1] In addition to the Senate Rules and the new provisions of law, Senate employees are subject to the restrictions of other statutes, such as the bribery law at 18 U.S.C. § 201(b) prohibiting the receipt of anything of value in return for being influenced in the performance of an official duty; the illegal gratuities clause, 18 U.S.C. § 201(c), prohibiting the receipt of anything of value "for or because of" an official act; and the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, note Article I, Sec. 9, cl. 8, of the Constitution, restricting gifts from foreign governments.

[2] Additionally, all employees of the government are prohibited from receiving compensation for any "services rendered" before a Federal agency (18 U.S.C. § 203, note also § 205); and are prohibited from receiving any compensation from a foreign government. Article I, Section 9, clause 8 of the Constitution. See also 18 U.S.C. § 219.

The financial disclosure provisions of the Ethics in Government Act have been amended and consolidated into one title for all three branches of the Federal government. Those persons in the Senate who must file annual public financial disclosure statements are the same under the new act as under the old provisions, that is, those compensated at a rate of a GS-16 or more, or at least one designated principal assistant of a Senator if no employee of the Senator is compensated at that rate. A requirement for a final report when covered staff leave their employment has been added by the new law.

The required contents of the disclosure statements include information substantially similar to the old provisions, and include the disclosure of outside earned income and unearned income; gifts of travel expenses; other gifts from any source other than a relative; reimbursements; interest in income producing assets and investments; liabilities; transactions in real property of stocks, bonds or other financial instruments; positions held in businesses and organizations, including whether any compensation exceeding $5,000 has been received from any one source during the preceding two years; any agreements or arrangements for future employment, leaves, of absence, or continuing compensation from any source other than the Federal government; and required reporting of certain financial information for one's spouse and dependent children. Some of the threshold amounts for disclosure have been raised, as well as certain threshold amounts under which gifts need not be aggregated for disclosure, and the categories of value for the disclosure of certain items such as assets, liabilities and transactions have been adjusted upwards, with greater specificity required for the upper limits.

The contents of trusts must generally be disclosed unless one creates or has an approved "qualified blind trust", and then only the income from such trust need be disclosed. The requirements for such qualified blind trusts have not changed in any significant manner under the new law.

D. Post Employment, "Revolving Door", Restrictions

The new ethics legislation adds some post-employment conflict of interest provisions, commonly known as "revolving door" laws, upon certain Senate staffers (generally those compensated at a rate of a GS–17 or above). These employees will be subject, after January 1, 1991, to a one-year "cooling off" or "no contact" period, where former employees of a Senator may not make advocacy or representational contacts to that Senator, or any of the Senator's employees, for one year after they leave office. Committee staffers covered by these provisions will be barred from making such advocacy contacts and representations for a year after leaving office to any Member or employee of their former committee, or to any Member who was on the committee during the last year of the staffer's employment. Section 101, new 18 U.S.C. § 207(e).

Covered legislative branch employees are also prohibited for a year after leaving office from representing an official foreign entity before the United States, or aiding or advising such entity with intent to influence any decision of an agency or employee of the United States Government. Section 101, new 18 U.S.C. § 207(f). There is a further restriction on all employees, including those in the legislative branch, who worked personally and substantially on a treaty or trade negotiation and who had access to information which is not subject to disclosure under the Freedom of Information Act, from using such information for one year after leaving the government for the purpose of aiding, assisting, advising, or representing anyone other than the United States regarding such treaty or trade negotiation. Section 101, new 18 U.S.C. § 207(b)(1).

All employees of the Senate are still subject to the Senate Rule governing lobbying after they leave Senate employment. Senate Rule XXXVII, clause 9, applies to all former staffers who have become registered lobbyists, or are employed by a registered lobbyist to influence legislation. Such former staffers are prohibited for one year after leaving the Senate from lobbying the Senator for whom they used to work or the Senator's staff; or if they were committee staff, are prohibited for one year from lobbying the Members or the staff of that committee.

PART VI

LEGAL MEMORANDUM CONCERNING THE QUALIFICATIONS AND ELIGIBILITIES OF MEMBERS OF CONGRESS

VI. QUALIFICATIONS AND ELIGIBILITIES OF MEMBERS OF CONGRESS *

A. Introduction and Background

Under Article I, section 1 of the Constitution, the Congress is organized into a bicameral legislative body consisting of a Senate and a House of Representatives.[1] Article I, section 2 prescribes the qualifications for the Members of the House: (1) twenty-five years of age, (2) a citizen for seven years, and (3) inhabitancy in the state from which the Member is to be chosen.[2] For Members of the Senate, Article I, section 3 prescribes the following qualifications: (1) thirty years of age, (2) a citizen for nine years, and (3) inhabitancy in the state from which the Member is to be chosen.[3]

Other qualifications for Members of Congress were considered by the delegates to the Constitutional Convention of 1787 such as: (1) having a freehold or other property of a certain value, (2) requiring the payment of taxes, (3) and a certain period of residency.[4] The Convention decided that the qualifications for both the House and Senate should be few and simple reflecting only age, citizenship, and inhabitancy.[5]

First, in regard to age, it was decided after much debate that Representatives must have attained twenty-five years and Senators thirty years. The delegates agreed that some qualification of age for Members of Congress was proper. The age of twenty-one was dismissed since persons of this age are often inexperienced and need more time to ". . . try their virtues, develop their talents, enlarge their resources, and give them a practical insight into the business of life adequate to their own immediate wants and duties." [6] The age of Senators was set at thirty which was an additional five years more than the age qualification for Representative since it was thought that the nature of the duties of a Senator required more experience, knowledge, and maturity than that of a Representative.[7]

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[1] U.S. Const., art. I, § 1.

[2] U.S. Const., art I, § 2 provides: "No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen."

[3] U.S. Const., art. I, § 3 provides: "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen."

[4] 2 J. Story, *Commentaries on the Constitution of the United States* (Boston; 1833; reprinted DaCapo Press New York: 1970) §§ 613–614 p. 90.

[5] *Id.*, § 615 pp. 90–91.

[6] *Id.*, § 616 pp. 91–92.

[7] *Id.*, §§ 726–727, pp. 204–205. Note that a similar qualification as to age was required of the Members of the Roman Senate, and persons were not considered of full age in Rome until the age of twenty-five.

Second, as to citizenship, Representatives must have been citizens for seven years, while for Senators the requirement is nine years. The obvious reasons for the citizenship requirement were (1) to negate foreign influence, (2) to allow sufficient time for foreigners to acquire knowledge of the institutions and interests of the Country,[8] and (3) to avoid situations whereby U.S. citizens would be represented by foreign Representatives who may not have their best interests in mind.[9] Originally the delegates to the Convention proposed a three years' citizenship requirement for Representatives but later changed it to seven years.[10] For Senators, a term of four years' citizenship was proposed, but it was later changed to nine years.[11]

Third, in regard to inhabitancy, the constitutional requirement for both Representatives and Senators is that they are, when elected, inhabitants of the state in which they are chosen. The purpose of this qualification was to secure an attachment to the state so that its interests would be properly represented. The inhabitancy that is required of Representatives and Senators is merely within a state not in any particular district of the state in which a Member is chosen. A one year's residence requirement was considered at the Convention but failed to pass.[12]

The age, citizenship, and inhabitancy requirements are the only qualifications for Members of Congress. They are paramount and exclusive qualifications, and state constitutions and laws can neither add to nor take away from these qualifications.[13] The Constitution has not delegated any authority to either the States or the Congress, to add to or diminish such qualifications of Members of Congress as prescribed by Article I of the Constitution. In case of a conflict between a state's laws or constitutional provisions relating to the qualifications of Members of Congress and the provisions of the Federal Constitution, the provisions of the Federal Constitution prevail. Thus, the mere possession of such qualifications as prescribed in the Constitution would make a person eligible for election to the Congress.[14] And Alexander Hamilton observed that ". . . [t]he qualifications of the persons who . . . may . . . be chosen . . . are defined and fixed in the Constitution, and are unalterable by the legislature." [15]

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[8] *Id.*, § 728, p. 206. See also *The Federalist*, No. 62.

[9] *Id.*, § 617, p. 93.

[10] *Ibid.*

[11] *Id.*, § 728, pp. 206–207. As noted in *The Federalist*. "The term of nine years appears to be a prudent mediocrity between a total exclusion of adopted citizens, whose merits and talents may claim a share in the public confidence, and an indiscriminate and hasty admission of them, which might create a channel for foreign influence in the national councils." See *The Federalist*, No. 62.

[12] *Id.*, §§ 618, 729, p. 94–207.

[13] 1 Hinds *Precedents Of the House of Representatives* (Washington: 1907), § 414, p. 382. See also 2 J. Story, *Commentaries* § 625 at p. 1011.

[14] *Id.*, § 414, pp. 382–383.

[15] *The Federalist*, No. 60 (Modern Library ed. 1937), 394. Also note that in Article I, section 6 clause 2 of the Constitution, there are certain other disqualifications: "[N]o person holding any Office under the United States, shall be a Member of either House during his Continuance in Office." Moreover, Article 1, section 6, clause 2 would disqualify a Member of Congress "during the time for which he was elected," from being appointed "to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time. . . ."

Even though the qualifications for Members of Congress were made quite simple and clear by the Authors of the Constitution, Congress on several occasions seemed to add additional qualifications such as by the 1862 disloyalty oath and by the exclusion in 1900 of a Member-elect for polygamy. And the issue of whether Congress could add additional qualifications for Members of Congress was not clarified until the 1969 Supreme Court decision in *Powell* v. *McCormack* in which the Court conclusively established that the Constitutional qualifications for Members of Congress under Article I were exclusive and that Congress could not add to them.[16] And while such qualifications appear to be quite clear, a number of issues regarding them have arisen which this report addresses.

B. State Residence Requirements

Questions have arisen concerning whether a state has a right to prescribe residence requirements for Members of Congress and more particularly congressional district residence requirements for Members of the House. For example, a 1790 Maryland law required a Member to be an inhabitant of the district at the time of election and to have resided there twelve months immediately prior to the election. In 1807, a House contested election case arose concerning whether an elected candidate to the House of Representatives has met the residence requirements of the State of Maryland. After much debate in the House, a report was issued that asserted: (1) that the qualifications for Members of Congress should be national in character and uniform throughout the nation, (2) that neither the States nor the Congress could add to or diminish such qualifications, and (3) that the States could not reserve a power to add to the qualifications of Members.[17]

In a 1958 Maryland Court of Appeals decision, *Hellmann* v. *Collier,*[18] involving a Maryland statute that required every candidate for the House of Representatives to be a resident of the congressional district in which the candidate sought election,[19] the Court held the statute invalid since the State does not have any power to fix the qualifications for Representatives of Congress. Moreover, the congressional district residency requirement was an attempt by the State to impose an additional qualification to the provision of Article I, section 2 which establishes the qualifications for Representatives of Congress. The Maryland Court of Appeals decision was based on the ground that the State cannot in any manner impose additional qualifications for Members of the House of Representatives [20] despite the fact that Congress has enacted laws providing for the reapportionment and redistricting for Members of the House.[21]

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[16] 395 U.S. 486, 543–547 (1969). See Act of July 2, 1862, 12 Stat. 502.

[17] 1 Hinds' *Precedents of the House of Representatives,* § 414, pp. 381–382 (1907).

[18] 217 Md. 93, 141 A. 2d 908 (1958).

[19] Maryland Annotated Code, Art. 33, sec. 158 (c) (1957).

[20] 141 A. 2d at 911–912.

[21] See the following federal statutory provisions relating to reapportionment and redistricting: 2 U.S.C. § 2 (number and apportionment of Representatives); 2 U.S.C. § 2a (reapportionment of Representatives: time and manner); 2 U.S.C. § 2b (number of Representatives from each state); and 2 U.S.C. § 2c (number of congressional districts, number of Representatives from each district).

By custom and precedent, however, it has become the norm that Representatives should be residents of the congressional districts which they are elected to represent. However, for a state to require this by a law, as the State of Maryland did, would have immediate constitutional problems since it is a well settled principle that States cannot add to the qualifications for Members of Congress.[22]

C. Definition of Inhabitancy

The constitutional qualifications of Article 1, sections 2 and 3 for members of the House and Senate require inhabitancy in the state in which a Member is chosen, but these provisions do not use the terms "residency" or "domicile." Black's Law Dictionary defines an inhabitant as: "One who resides actually and permanently in a given place, and has his domicile there." [23] The terms "resident" and "inhabitant" are not necessarily synonymous. Inhabitancy implies a more fixed and permanent abode and imports certain privileges and and responsibilities which residency would not have.[24] "Residence" is defined as the "[P]ersonal presence at some place of abode with no present intention of definite or early removal and with purpose to remain for undetermined period, not infrequently, but not necessarily combined with design to stay permanently." [25] And "domicile" is [T]hat place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning." [26]

What are the criteria that would establish inhabitancy for the purpose of meeting that qualification under Article I, sections 2 and 3 of the Constitution? Some of the early contested election cases in the House of Representatives concerning the issue of inhabitancy give us certain criteria. To determine inhabitancy of House Members the following factors were considered:

(1) citizen of the state involved;
(2) native of state involved;
(3) residence in state;
(4) residence in other states;
(5) type of home in state (vacation home or permanent home);
(6) professional licensure in state (e.g. license to practice law in state); [27]
(7) pension from a foreign country;
(8) residence abroad;
(9) property in state-both real and personal;
(10) intention to return to state if outside of state; [28]

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[22] Bernard Schwartz, *A Commentary on the Constitution of the United States, Part 1 "The Powers of Government"* (New York: The MacMillan Co., 1963) p. 97.

[23] Black's Law Dictionary 703 (5th ed. 1979). See also *Ex Parte Shaw,* 145 U.S. 444,447 (1892).

[24] *Ibid.*

[25] *Id.*, 1176.

[26] *Id.*, 435.

[27] These seven criteria were considered in the House Contested election case of Philip B. Key of Maryland in the Tenth Congress (1807–1808). See. 1 Hinds' *Precedents of the House of Representatives* § 432, pp. 417–419 (1907).

[28] Factors numbered 8, 9, and 10 were considered in the House contested election case of John Bailey in 1824 who was elected from Massachusetts to the Eighteenth Congress, but Congress concluded that, since he held an office and resided with his family for a series of years in the District of Columbia exclusively, he was disqualified to sit as a Member from Massachusetts. 1

Continued

(11) state usage of the term "inhabitant".[29]

The House has used a number of these factors to establish the inhabitancy of a Member when it has been questioned. In the 1824 election contest case of John Bailey who was elected from Massachusetts and found disqualified to sit because of insufficient indices of inhabitancy, the then House Committee on Elections observed that the term "resident" had first been proposed by the Framers of the Constitution but was later changed to "inhabitant" since it was thought that the latter term would express more clearly their intention that Members of Congress should be completely identified with the state which they represent.[30] The Committee also observed that the inhabitancy qualification in Article I of the Constitution did not necessarily mean that a member must be actually residing in the state at the time of election.[31]

The Senate election contest cases that have concerned the issue of inhabitancy generally have not analyzed that particular qualification as much as the pertinent House election contest cases have. For example, in the 1809 Senate election contest case of Stanley Griswold from Ohio, the Senate found that, since the term of residence to entitle a person to become an inhabitant of the State was not defined by either the Ohio Constitution or the laws of the State of Ohio, the certificate of the Governor that Griswold was a citizej of Ohio was sufficient to entitle him to a seat.[32] In the 1870 Senate election contest case of Adelbert Ames from Mississippi, the Senate Judicary Committee determined that he was not, when elected, an inhabitant of the State since he only went to Mississippi due to military orders stationing him there and since only shortly before the election did he decide to be a senatorial candidate and remain and reside in Mississippi. Despite the Judiciary Committee's report, the Senate after a long debate allowed Mr. Ames to take the oath of office after resolving that he was eligible to be a Member of the Senate.[33]

D. Holding Public Office and Eligibility for Congressional Office

When state constitutional or statutory provisions have disqualified certain Members-elect because they held certain state offices, both the House and the Senate have seated these Members-elect who did not meet the additional state qualifications or who suffered certain disqualifications as to eligibility to Congress since they held particular state offices. Such provisions have almost universally been held by Congress in contested election cases and by

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Hinds' *Precedents of the House of Representatives* § 434, pp. 419–422 (1907). But in the 1824 contested election case of John Forsyth of Georgia, the House held that residence abroad in the service of the Government does not constitute a disqualification. 1 Hinds' *Precedents supra* § 433 at p. 419.

[29] For example, in Massachusetts in regard to the election contest case of John Bailey in 1824, the term "inhabitant" referred to a person as a member of a certain political community and not as a resident. see 1 Hinds' *Precedents Supra* § 433 at p. 422, *Cf.* Senate election contest case of *Stanley Griswold* in 1809 in which it was determined that since the State of Ohio did not have any laws or constitutional provisions construing the term "inhabitant," citizenship in the State would be sufficient to meet the inhabitancy qualification. See *Senate Election, Expulsion And Censure Cases From 1793 to 1972,* S. Doc. No. 92–7, 92d Cong., 1 st Sess., 5 (1972).

[30] 1 Hinds' *Prededents, supra,* § 434 at p. 420.

[31] *Id., p. 421.*

[32] *Senate Election Cases, Supra*, S. Doc. No. 92–7 at p. 5.

[33] *Id.*, p. 45.

the Courts, predominantly state courts, to be additional qualifications to those set forth in Article I sections 2 and 3 which would be unconstitutional since no state may add to the constitutional qualifications for Members of the House and Senate.[34]

In an 1852 Senate election contest case, for example, the Senate voted to seat Lyman Trumbull of Illinois who was a judge of the Supreme Court of Illinois even though the Constitution of Illinois had a provision that would disqualify him.[35] The Senate concluded that the State of Illinois could not add qualifications for eligibility to the Senate to those as defined by Article I, section 3, clause 3 of the United States Constitution.[36] And in an 1887 Senate election contest case involving a Senator-elect from West Virginia who at the time of his election was a judge of the 13th Judicial Circuit, it was alleged that the Senator-elect was ineligible because of a state disqualification of eligibility as stated in the West Virginia Constitution (Art. VIII, § 16) that a judge could not, during his continuance in office, be eligible to any political office. The Senate concluded that the Senator-elect could be seated since the West Virginia constitutional provision would prescribe an additional qualification to those set forth in the United States Constitution and would thus be invalid due to this conflict.[37]

Likewise, a number of state court holdings provide that states cannot add to those qualifications for Members of Congress that appear in sections 2 and 3 of Article I of the Constitution. In a 1918 decision, the Supreme Court of the State of Washington held that the State cannot change the qualifications as fixed by the United States Constitution for either House of Congress by provisions in the Constitution of Washington (Article 4, § 15) requiring that judges of the Supreme Court and superior courts shall be ineligible for any other office during their term.[38] In 1940 the Arizona Supreme Court similarly held that the provision of the Constitution of Arizona (Constitution of Arizona, Article 6, section 11) providing that the judges of the Supreme and Superior courts shall not be eligible to any office of public employment other than a judicial office of employment during the time for which they have been elected does not affect the qualifications of a candidate for Congress either in a primary or a general election. And, when there is a conflict between state and federal constitutional provisions relating to the qualifications of Members of Congress, the provisions of the United States Constitution prevail.[39]

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[34] See generally 1 Hinds' *Precedents supra*, §§ 414–417, pp. 381–389.

[35] The Constitution of Illinois provided that the judges of the Supreme Court should not be eligible to any office of pubic trust or profit in the United States during the term for which they were elected nor for one year thereafter and that the votes for them for any elected office should be void. See *Senate Election Cases, supra*, S. Doc. No. 92–7 at p. 23.

[36] *Ibid.*

[37] *Id., pp. 53–57.*

[38] *State ex rel. Chandler* v. *Howell*, 104 Wash. 99, 175 P.2d 569, 571 (1918).

[39] *Stockton* v. *McFarland*, 56 Ariz. 138, 106 P.2d 328, 330–331 (1940). See also the following decisions which held that similar state disqualifications would not prevent candidates for Congress from running for office, being nominated for office, and being eligible for office since they would be additional qualifications to those prescribed by the United States Constitution: *State ex rel. Wettengel* v. *Zimmerman*, 249 Wis. 237, 24 N.W. 2d 504, 508–509 (1946); *Riley* v. *Cordell*, 200 Okla. 390, 194 P.2d 857, 861–862 (1948); *State ex rel. Johnson* v. *Crane*, 65 Wyo. 189, 197 P.2d 864 (1948); N.E. 2d 508, 512–513 (1958); and *Florida ex rel. Davis* v. *Adams*, 238 So. 2d 415 (Fla. 1970), *stay granted*, 400 U.S. 1203 (1970) (Justice Black in Chambers); and *Stack* v. *Adams*, 315 F. Supp. 1295.

In a 1970 federal court decision regarding congressional elections in the State of Florida, a three judge District Court held that a Florida election statute which required a condition precedent to qualification that a person resign from any state public office violated Article I, section 2, clause 2 of the United States Constitution setting forth the qualifications for such office.[40] The District Court asserted that the qualfications prescribed the United States Constitution are exclusive and that state constitutional and statutory provisions can neither add to nor take away from them. The Court further noted that this proposition is universally accepted and recognized and that state courts with singular unanimity have arrived at the same holding.[41]

E. Subversive Activities and Eligibility for Congress

A congressional candidate cannot be required to file an affidavit that he or she is not a subversive who seeks the forcible overthrow of the Government.[42] In 1950, for example, the Court of Appeals of Maryland held that the statute which required candidates for public office to file with their nomination certificates affidavits that they are not subversive persons was operative for candidates for state office but not for candidates for congressional office.[43] The Maryland Court of Appeals made the following findings: (1) that the qualifications for a Representative in Congress are set out in Section 2 of Article I of the Federal Constitution, (2) that there are no other qualifications prescribed by the Constitution, (3) that Section 5 of Article I of the Constitution provides that each House of Congress shall be the judge of the qualifications of its own Members, and (4) that Members of Congress take the oath prescribed by Article VI of the Constitution and not the oath prescribed by Maryland statutory and constitutional provisions.

Consequently, the Maryland Court of Appeals concluded that there is nothing in the Federal Constitution which prevents a Member of Congress from being a subversive who would seek to overthrow the Government by force or violence. And, if that is a disqualification, it must be determined by Congress itself and not by a state court or a state legislature.[44] And a 1940 New York decision held that, where a candidate for the U.S. House of Representatives was otherwise qualified, the fact that he was a leader of the Communist Party in America and openly espoused international communism did not render him ineligible.[45]

F. Felony Conviction and Eligibility for Congress

Is a convicted felon ineligible to be a candidate for Congress? This issue was addressed in a 1918 Minnesota Supreme Court decision which held that the State constitutional provisions which would disqualify convicted felons can have no application to the office of United States Senator.[46] The Court further held that the qualifications of those aspiring to or holding congressional office are prescribed by the federal Constitution which the State is without authority to modify or enlarge in any way. Consequently the candidate who was a convicted felon was not disqualified under the provisions of the United States Constitution.[47]

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[40] *Stack* v. *Adams,* 315 F. Supp. 1295, 1297 (N.D. Fla. 1970, three-judge district court, *Interim relief granted,* 400 U.S. 1205 (1970) (Justice Black in Chambers).

[41] *Id.,* 1297. *Cf. Exon* v. *Temann,* 279 F. Supp. 609 (1968).

[42] Bernard Schwartz, *A Commentary supra* at p. 97. However, note that in 1862 due to the Civil War, Congress enacted a law requiring its Members to take an oath that they had never been disloyal to the Government (Act of July 2, 1862, 12 Stat. 502, and several House and Senate candidates were refused their seats in 1868 on charges of disloyalty. See, 1 Hinds' *Precedents of the House of Representatives,* § § 449, 451, and 457 at pp. 431, 451, and 466.

[43] *Shub* v. *Simpson,* 76 A. 2d 332, 335–336 (Ct. of App. Md. 1950).

[44] *Id.,* 340.

[45] *In re O'Connor,* 173 Misc. 419, 17 N.Y.S. 2d 758, 759 (1940).

G. Eligibility of Congressional Candidates After Defeat in Primary Election

At issue is whether a candidate for Congress can run in a general election for congressional office after a primary election defeat despite a state election law prohibiting defeated primary candidates from running in the general election. A 1942 North Dakota Supreme Court decision addressed this issue and held that a statute prohibiting a defeated primary candidate from being a candidate for the same office at the general election was inapplicable to congressional candidates since it was not regulatory but added a qualification for holding congressional office in addition to those fixed by the Federal Constitution.[48] State election statutory provisions which are merely regulatory and are concerned only with the manner of holding elections do not impose additional qualifications for holding congressional office. But, when a state election law bars the placement of a candidate's name on a general election ballot, it consequently makes the congressional candidate ineligible for said office and thus imposes an additional qualification for congressional office, namely the requirement that you must not lose a primary election which the State has no power to do as to congressional offices.[49]

However, a 1902 decision by the Supreme Court of Minnesota held that a statute prohibiting an unsuccessful congressional candidate at a primary election from having his name printed on the general election ballot as an independent candidate for the same congressional office was held to be a reasonable and valid regulation that did not affect his eligibility for congressional office since the official ballot had a provision for write-in votes.[50] Thus, when state election laws prohibit congressional candidates defeated in primary elections from having their names printed on general election ballots, these provisions do not affect their eligibility to congressional office as defined by the Federal Constitution since they provide for a write-in provision which protects congressional eligibility and enables congressional candidates to be elected if the requisite number of write-in votes are received.[51] Likewise, a 1934 Nebraska Supreme Court decision held that a candidate who was defeated at a primary election for the office of governor could not by petition become a candidate for the office of United States Senator.[52] The Court concluded that the candidate was not entitled to have his name printed on the ballot even though he was seeking the office of a U.S. Senator since he may still be a write-in candidate and win the election if a sufficient number of voters write in his name on the ballot.[53] According to the court, the state statute prohibiting defeated primary candidates from being on the general election ballot by petition did not impose an additional qualification to be a United States Senator and not prevent him from being a candidate in the general election due to the write-in provisions.[54]

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[46] *State ex rel. Eaton* v. *Schmahl,* 167 N.W. 481 (Sup. Ct. Minn. 1918).

[47] *Ibid.*

[48] *State ex rel. Sundfor* v. *Thorson,* 6 N.W. 2d 89, 91–92 (Sup. Ct. N.D. 1942)

[49] *Id.*, 90.

[50] *State ex rel. McCarthy* v. *Moore, County Auditor,* 87 Minn. 308, 92 N.W. 4 (1902).

[51] 6 N.W. 2d at 91.

H. State Requirements for Obtaining Ballot Access

All state election laws have certain regulatory provisions requiring both state and Federal candidates to do all or some of the following: (1) file a declaration of candidacy, (2) file a nominating petition with a requisite number of signatures, and (3) pay a filing fee in certain jurisdictions.[55] Since such requirements are regulatory and are concerned with the formation of the ballots of the primary and general elections and the procedure and conduct of such elections, they do not impose additional qualifications for holding congressional offices.[56]

The filing fee requirements in a couple of states have been challenged on the ground that they impose an additional qualification on the right to hold a certain office in violation of constitutional provisions setting forth the qualifications for certain elective offices. This issue was addressed by a 1961 Florida Supreme Court decision which upheld an $875.00 filing fee for the office of Supreme Court Justice. The Court asserted that the filing fee requirement imposed no additional qualification upon the right to hold office and that it dealt only with the requirements to become a candidate for the office.[57] As long as such filing fee provisions are not arbitrary or unreasonable, they are valid legislative enactments that help defray the costs of certain election procedures of the nomination or election to the offices being sought by candidates and help maintain the size of the ballot within reasonable limits for the sake of insuring the efficiency of the election process.[58] And in a 1905 Court of Appeals decision in Maryland it was similarly held that the exaction of a filing fee was by no means on imposition of a property qualification on the candidates.[59] However, it should be noted that the United States Supreme Court on two occasions in 1972 and 1974 in *Bullock* v. *Carter* and [60] *Lubin* v. *Panish*,[61] has held that, when state election statutes provide for filing fee requirements without providing for reasonable alternative means of access to the ballot, they are unconstitutional by denying equal protection of the laws to indigent candidates who are unable to pay.

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[52] *State ex rel. O'Sullivan* v. *Swanson*, 257 N.W. 255 (Sup. Ct. Neb. 1934).

[53] *Id.*, 255, 256.

[54] *Id.*, 256.

[55] See, e.g., Part II, *supra*, concerning various state election law requirements for the nomination and election of congressional candidates which include *inter alia* provisions relating to declarations of candidacy, nominating petitions, and filing fees.

[56] 6 N.W. 2d at 90.

[57] *Bonder* v. *Gray*, 129 So. 2d 419, 421 (Sup. Ct. of Fla. 1961).

[58] 25 Am. Jur. 2d Elections § 182 (Payment of Filing Fees).

[59] *Kenneweg* v. *Allegany County Com'rs*, 62 A. 249, 251 (Ct. of App. Md. 1905).

[60] 405 U.S. 134, 140-149 (1972).

[61] 415 U.S. 709, 717-718 (1974).

I. Recall of Members of Congress

There is no federal statute providing for the recall of United States Senators and Representatives, and the Federal Constitution does not provide for any recall of Members of Congress. And before a United States Senator or Representative could be recalled, a constitutional amendment providing for such a recall would have to be adopted by two-thirds of both houses of Congress and ratified by three-fourths of the States in accordance with Article V.

United States Senators and Representatives may lose their congressional seats—aside from death or resignation—in the following ways: (1) if they are appointed to a civil office during the time for which they are elected; [62] (2) if they are elected to an incompatible office such as governor of a state; [63] (3) if they are expelled, with the concurrence of two-thirds of the members, by the respective House,[64] and (4) if they are disqualified if after having previously taken an oath to support the constitution, they shall have engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies of the United States.[65] These are the only removal procedures that are set forth in the Constitution for involuntary removal from offices of Senator and Representative.

In the Articles of Confederation, state legislatures were authorized to recall their delegates to Congress [66] However, no such provisions were incorporated into the United States Constitution. Some states have recall provisions that arguably may be applicable to Members of Congress since the scope of the recall of many provisions apply to all elected officials which could conceivably mean members of Congress also; Michigan specifically includes members of Congress within the recall statute.[67] In Arizona candidates for the United States Senate or House of Representatives may file a pre-primary statement or pledge promising to resign if not re-elected in a recall vote.[68] And in Wisconsin the qualified electors of any congressional district may petition for the recall of any elective officer.[69]

Under Article I, section 5, clause 1, the Constitution provides that "Each House shall be the judge of the elections, returns and qualifications of its own Members. . . ." States cannot judge the qualifications of Senators and Representatives since this is left to each respective House under Article I, section 5, clause 1.[70] States cannot prescribe qualifications for Members of Congress other than those set forth in the Constitution under Article I, section 2, clause

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[62] U.S. Const., art. I, § 6, cl. 2.

[63] Hinds' Precedents of the House of Representatives, vol. 1, ch. 15, 16.

[64] U.S. Const. art. I, § 5, cl. 2.

[65] U.S. Const. amend. XIV, § 3.

[66] Articles of Confederation, art. V.

[67] Mich. Comp. Laws Anno., §§ 168.121, 168.149.

[68] Ariz. Rev. Stats., §§ 19-221, 19-222.

[69] Wisc. Const., art. 13, § 12.

[70] *Koegh* v. *Horner,* 8 F. Supp. 933 (D. Ill. 1954), *Burnchell* v. *State Board of Election Commissioners,* 252 Ky, 853, 68 S.W. 2d 427 (1934); *State ex rel. 25 Voters* v. *Selvig,* 170 Minn. 406, 212 N.W. 604 (1927).

2[71] for United States Representatives and under Article I, section 3, clause 3[72] for United States Senators. Such constitutional provisions manifest three distinct qualifications for Members of Congress: age, citizenship, and inhabitancy; such provisions have been construed by the courts as being exclusive and as setting the only qualifications which may validly be required for candidates for Congressional office. The constitutional qualifications are paramount and exclusive, and state constitutions and laws can neither add to nor take away from them. In case of a conflict, provisions in the Federal Constitution prevail, so that mere possession of such qualifications prescribed in the Constitution makes one eligible for election to Congress, and he will be disqualified therefor by state constitutional or statutory provisions that make the holders of particular offices ineligible for any office.[73] Thus, making a United States Senator or United States Representative subject to removal by a state recall election would constitute an additional qualification for office which the states do not have the constitutional authority to enact. And under the Supremacy Clause of the Federal Constitution,[74] the provisions of the U.S. Constitution prevail over state constitutional and statutory provisions. Also United States Senators and Representatives are federal and not state officers, and states cannot exercise the same jurisdiction over them as their own officers.[75]

The matter of the recall of Members of Congress was the subject of an unreported judicial decision of an Idaho state district court in October 1967 in which a suit was dismissed which attempted to compel the Secretary of State to accept petitions seeking the recall of a United States Senator from Idaho. The judge, in dismissing the suit, found that a state recall of a United States Senator would violate Article I, Section 5, clause 1 of the Constitution which provides that each House of Congress ". . . shall be the judge of the elections, returns and qualifications of its own members. . . ."

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[71] U.S. Const., art. I, § 2, cl. 2: No person shall be a Representative who shall not have attained the Age of twenty-five Years and have been seven Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

[72] U.S. Const., art. I, § 3, cl. 3: No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

[73] See generally, *State ex rel. Chandler* v. *Howell,* 104 Wash. 99, 175 P. 569 (1918); *State ex rel. Wettengel* v. *Zimmerman,* 249 Wisc. 237, 24 N.W. 2d 504, 504, 508 (1946); *Shub* v. *Simpson,* 196 Md. 177, 76 A. 2d 332 (1950); *Danielson* v. *Fitzsimmons,* 232 Minn. 149, 44 N.W. 2d 484 (1950); *Hellmann* v. *Collier,* 217 Md. 93, 141 A.2d 908 (1958); *Powell* v. *McCormack,* 395 U.S. 486 (1969).

[74] U.S. Const., art. VI.

[75] *Danielson* v. *Fitzsimmons,* 232 Minn. 149, 44 N.W. 2d 484 (1950).